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Worldwide Report

LAW OF THE SEA

No. 103



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CONTENTS

PAGE

WORLDWIDE AFFAIRS

International Legal Support for Safety of Ocean Research (Ye. I. Karasev, K. A. Bekyashev; RYBNOYE KHOZYAYSTVO, Apr 79).....	1
--	---

ASIA

INTER-ASIAN AFFAIRS

Briefs	
New Zealand Zone Intrusion	8

AUSTRALIA

Federal, State Governments Agree on Offshore Rights (THE WEST AUSTRALIAN, 30 Jun 79).....	9
West Australia Prepares for Introduction of 200-Mile Zone (THE WEST AUSTRALIAN, 4 Jul 79).....	10
Commonwealth-States Agreement on Seabed Analyzed (THE AUSTRALIAN, 16, 19 Jul 79).....	11
Legal Doubts Explained, by Trish Evans Defense by Attorney General	
Briefs	
Queensland Zoning Opposed	15
Border Treaty Challenge	15
Satellites Against Poachers	15

CONTENTS (Continued)

Page

NEW ZEALAND

- Administering 1.4 Million-Mile Economic Zone Brings Problems
(Stuart McMillan, THE WEEKEND AUSTRALIAN, 21-22 Jul 79).. 17

LATIN AMERICA

ARGENTINA

- Stiff Penalties To Be Imposed on Foreign Illegal Fishing
(LA PRENSA, 6 Jul 79)..... 19
- Invasion of National Fishing Waters Denounced
(Editorial; LA NACION, 10 Jul 79)..... 21
- Possible Krill Catch Estimated at 1 Million Tons a Year
(Editorial; CONVICION, 19 Jul 79)..... 22

NEAR EAST AND NORTH AFRICA

MOROCCO

- Development of Moroccan Positions on LOS Discussed
(Mohammed Bennouna; MAGHREB-MACHREK, Apr-May-Jun 79)..... 24
- Report on USFP Draft Law for Exclusive Economic Zone
(Fathallah Ouallalou; MAGHREB-MACHREK, Apr-May-Jun 79)... 34
- Text of USFP Draft Law for Exclusive Economic Zone
(MAGHREB-MACHREK, Apr-May-Jun 79)..... 40

USSR

- Development of a Cadaster for the World Ocean's Bioresources
(V. V. Ivchenko; RYBNOYE KHOZYAYSTVO, Mar, Apr 79)..... 44

WESTERN EUROPE

FEDERAL REPUBLIC OF GERMANY

- FRG Interests for Eighth LOS Conference Discussed
(Wolfgang von Geldern; DEUTSCHE ZEITUNG, 3 Aug 79)..... 56

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INTERNATIONAL LEGAL SUPPORT FOR SAFETY OF OCEAN RESEARCH

Moscow RYBNOYE KHOZYAYSTVO in Russian No 4, Apr 79 pp 36-40

[Article by Ye. I. Karasev, Second Assistant Captain, Scientific Research Vessel Akademik Kurchatov, and K. A. Bekyashev, Senior Researcher, USSR Academy of Sciences Institute of World Economics and International Relations]

[Text] Almost 500 scientific research institutions of 40 countries are now performing integrated research on the World Ocean with the goal of developing its resources sensibly. Each year more than 1,200 expeditions are conducted aboard 800 scientific research vessels, of which 200 belong to the Soviet Union. Moreover use of automatic oceanic data collecting resources (SSOD) is broadening with every year. Among them, self-contained buoy stations (ABS) are enjoying the greatest application.

Use of buoy stations on the World Ocean is foreseen by numerous international, regional, and national programs. Thus the Integrated Global Ocean Station System (IGOSS), a project of the Intergovernmental Oceanographic Commission (IOC) and the World Meteorological Organization (WMO), must accumulate information required for prediction of the ocean's state and the weather above it. While a network of meteorological stations making regular weather observations has existed on land for a rather long time and is operated sufficiently frequently, there is no such thing as a regular observation network on the ocean. Practical workers sense a clear lack of data on the states of the ocean and of forecasts of weather above the ocean. This lack may be eliminated by increasing the number of self-contained buoy stations. Meteorologists prefer an average distance of 300 km between stations in the network of oceanic meteorological buoys and platforms. Self-contained buoy stations have a number of advantages over scientific research vessels: They may be set up in a given region for a long period of time and serve as all-weather oceanographic data acquisition points. About 3,500 buoys would be needed to support a global meteorological network with information about the ocean-atmosphere interface.

According to the Convention on the International Satellite Marine Communication System Organization (INMARSAT) self-contained buoy stations may

utilize this organization's airwaves. It is believed that such communication will to some extent alleviate the problem of keeping scientific research on the World Ocean safe. However, this convention has not gone into effect as yet.

In 1977 the WMO Executive Committee adopted a resolution organizing a system of drifting buoys in the Southern Hemisphere (see figure below*). Participating in this experiment, Argentina intends to set up 50 buoys, and France will set up 30. Great Britain, the USA, and other countries are participating in the experiment. Three hundred buoys have been set up since 1 December 1978 in the region between 20° and 65° S. Lat. in accordance with IOC Resolution Yes VIII.

Soviet oceanographers have long been conducting special hydrophysical research with the help of SSO. As an example the first self-contained buoy station was set up on the Black Sea in 1956 for 18 days to measure currents. In summer 1958 three anchored buoys were used as platforms for making observations of currents in the Northeast Atlantic. Later, in 1967, a system of seven buoy stations was set up in the Arabian Sea. These programs served as a starting point for organization of subsequent large-scale research projects. In 1970 Soviet oceanographers performed the Poligon-70 hydrophysical experiment in the tropical Atlantic. Scientists set up 17 buoys outfitted with instruments. Owing to a broad program of measurements performed over a period of 7 months, it was established that vortexes similar to atmospheric cyclones and anticyclones exist on the open ocean. This discovery was a surprise to many, and it necessitated a re-examination of the basic conceptions of oceanic dynamics. The results of the Soviet Poligon-70 experiment served as the basis for the American Oceanographic program MODE-1 in the Sargasso Sea, east of Florida. Six scientific research vessels and two airplanes participated in this experiment for 3 months. Sixteen anchored self-contained buoy stations were set up to study this region of the ocean; SOFAR acoustic buoys were also extensively used for long-term observations of deep currents. As a result new major oceanic vortexes were discovered and documented.

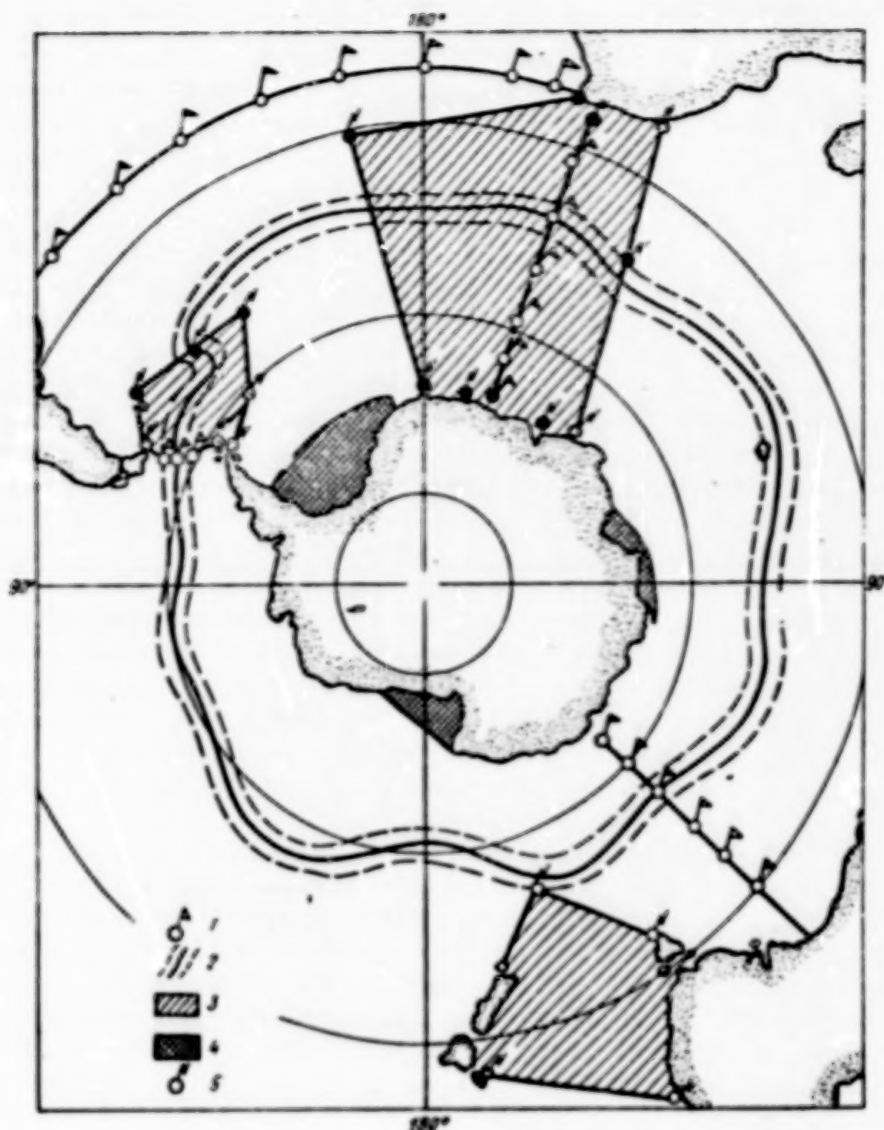
Soviet and American scientists performed the POLIMODE joint experiment in accordance with a bilateral treaty on World Ocean research. The kinematics and structure of the vortex field of the Bermuda Triangle were studied in 1978 with the help of buoys.

In the Tenth Five-Year Plan the USSR proposed organizing 129 new hydro-meteorological stations, to include nine marine.**

Buoys and buoy stations located chaotically on the World Ocean present a serious hazard to vessels. Without a doubt a sensible compromise between

* MOK/SOK--III/3.12 September 1977.

** Izrael', Yu. A., "Basic Tasks of the USSR Hydrometeorological Service and the Prospects of Its Development," METEOROLOGIYA I GIDROLOGIYA, No 7, 1976, p 8.



International research in the Southern Ocean: 1--locations of buoy stations; 2--surveying in the polar frontal zone; 3--energy polygons; 4--regions of research on bottom water formation; 5--aerological sampling stations.

the interests of oceanographic services and the fishing and other fleets must be arrived at through international law.

Considering the pressing need for international legal regulation of scientific research at sea, between 1968 and 1972 the IOC prepared a draft Convention on the Legal Status of Ocean Data Collection Systems.*

* See "IOC Reports. SC-72/CONF. 85/8," 3 June 1972 for the annotated text.

This document foresees regulation of the order for placing, registering, retrieving, and returning SSOD, and it contains the safety requirements applicable to the use of oceanic data collection systems, resources, and devices.

According to Article 1 of this draft convention an SSOD is a structure, platform, apparatus, buoy, or other device that is not a vessel and which is used together with the appropriate equipment to collect, store, or transmit samples and data pertaining to the marine environment, the atmosphere, or their use.

Although the draft convention was finished in 1970, its official adoption was delayed in connection with the beginning of the Third UN Conference on the Law of the Sea. A number of international organizations undertook efforts to develop the technical and legal rules for use of SSOD. As an example Technical Attachments I-IV to the draft convention pertaining to illumination, labeling, signals, and other safety measures applicable to SSOD, were examined at a preparatory conference of the government experts of UNESCO and IMCO, held from 31 January to 11 February 1972. The conference expressed the hope that without waiting for final adoption of the convention, "countries placing SSOD or permitting their placement will undertake the appropriate steps to insure navigational safety, preservation of the marine environment, and protection of other legal users of the sea."

In February 1976 the International Association of Lighthouse Services (IALS) developed draft international rules limiting navigational hazards, which came to be called the "Combined Cardinal-Lateral System of Floating Safety Devices. (System A--red on the left)." Clause 6 of these rules touches upon the issue of marking scientific instruments at sea with safety devices. Countries of Northwest Europe have begun replacing navigational safety devices with those of the integrated combined cardinal-lateral system in compliance with these rules. This work is to be completed in five stages, from April 1977 to 1981.

The IALS draft contains the following rule on marking oceanographic stations: "Yellow buoy, shape optional, topped with a figure 'X', yellow light, light characteristics optional, to be different from other warning signs of the combined system, of separately standing navigation hazards, and of division zones." It should be noted that the IALS recommendations are inconsistent with the Technical Attachments to the draft Convention on the Legal Status of SSOD.

The draft SSOD convention prepared by the IOC contains special statutes on insuring the safety of navigation and fishing in connection with placement of ABS. Thus Article 12 of the draft recommends that the countries of registry establish safety zones about anchored, bottom-mounted, and nuclear SSOD emerging on the water surface. Such a zone must not hinder free navigation, and it may be established only with the consent of the country responsible for navigational aids in the given region. As a rule an SSOD cannot be

placed in straits, fairways, port approaches, regions of intersecting maritime routes, fishing areas, and other places of intense traffic.

As is obvious from articles 12 and 13 of the draft, the convention neglects some important standards having significance to insuring the safety of navigation and fishing.

Commentary to Article 12 notes that some countries have stated doubts as to the desirability or necessity of establishing safety zones around SSOD. This is obviously why the writers of the draft convention limited their wording to "may establish." This article must be worded in its final version in such a way as to guarantee security of the SSOD. There can be no doubt that the owner of the SSOD has an obligation to publish the limits of the corresponding safety zone, mark it out, and take steps to comply with the requirements imposed on such a safety zone. The breadth of such a zone depends on the nature of the SSOD, and it must not exceed 500 meters.

The time has come, in the opinion of practical workers, to develop special rules regulating the order of placing SSOD in places of active fishing. The issue of priority in areas where the sea's living resources are harvested has still not been resolved in the international aspect. According to Article 2 of the 1958 Convention on the High Seas the owner of an SSOD and the owner of a fishing vessel enjoy equal rights in the use of a particular area of the World Ocean. However, it is often difficult to combine these forms of legal activity in the same place at sea, and it is often difficult to place a priority on some one of them. The implication here is not free passage of fishing vessels but rather the possibility of having an SSOD operate in a place of active fishing. As we know a region containing a large number of SSOD is declared to be temporarily restricted, which may significantly affect fishing results.

In our opinion we need to develop and adopt unified technical-legal rules by which to resolve conflicts concerning SSOD caught in fishing gear. What is the order for removing the SSOD from the fishing gear? Should the SSOD owner be informed of the incident, and how is he to be informed? What is to be done with the SSOD after the incident? What are the obligations of the parties concerning compensation for material losses? There are no clear answers in any international legal documents to these and many other questions.

Without a doubt we need to improve and supplement regulations on safe operation of scientific research vessels. According to the 1972 International Regulation for Preventing Collisions at Sea (IRPCS-72) scientific research vessels are categorized as vessels with restricted maneuverability. This is reasonable. Research vessels towing complex systems of instruments extending 2-3 nautical miles cannot adhere to the rules of maneuvering. However, from the standpoint of mutual relationships existing between vessels engaged in fishing and in oceanographic operations, the new rules are still imperfect. They make the actions of a vessel dependent on the concrete circumstances

or the external conditions. Moreover the obligations of passing vessels are not regulated clearly.

Fishing vessels should probably plan their actions beforehand and keep from coming dangerously close to scientific research vessels. In our opinion we must make further improvements on the technical regulations; as an example we need to adopt supplements to the IRPCS-72 defining the order of passage of scientific research vessels and fishing vessels.

Regulations governing joint operation of scientific research and fishing vessels must also impose definite responsibilities upon the scientific vessels. Obviously scientific research vessels must account for the specific features of the fishing gear being employed, and they must coordinate their activity with the chief of the fishing operation. In the event of collision with fishing gear or damage to it, those at fault must be made materially liable.

Experience has shown that both parties must receive timely information on forthcoming maneuvers and on the conditions under which they are to be performed. Scientific research vessel navigators often use ultrashort-wave radio-telephone communication to facilitate coordination of the actions of passing vessels or to broadcast warnings of maneuvers, since use of special light signals foreseen by the IRPCS-72 is ineffective. Navigators aboard vessels possessing radio-telephone apparatus capitalize on the possibilities for using it to avert mishaps or damage to scientific equipment. As an example according to U. S. legislation, to insure navigational safety all vessels with a mechanical propulsion system having a deadweight of 300 tons and must be outfitted with a radio-telephone communication system permitting exchange of navigational information. Vessels officially inform one another about their maneuvers on a specially allocated frequency, 156.65 MHz (ultrashort-wave channel 13). In areas of intense shipping and fishing, in fog, and in other hazardous situations a scientific research vessel equipped with such a device may provide information on the nature of its activity to other vessels in the form of radio pulses. A code can easily be devised by treaty.

An analysis of navigation information published by a number of countries showed that not enough information is generally provided to insure the safety of both SSOD and the vessels themselves. The need for standardizing floating navigation markers used to protect scientific instruments in the USSR has already been discussed in the Soviet literature.* Due to significant variations in the marking systems used on scientific apparatus at sea, the issue of unifying legal protection of these structures has become urgent.

* Karasev, Ye. I., "Unifying the Protective Markings of Scientific Apparatus," *MORSKOY FLOT*, No 11, 1975, p 24.

Attempts have already been made in a number of countries to legalize unified principles for marking scientific instruments placed in territorial waters, straits, fishing zones, and on the open sea. According to Danish legislation instruments are marked following the lateral system of navigational aids. Places of oceanographic operations are marked by buoys (stations) painted with red and yellow vertical stripes, if the buoy (station) is adrift. Light buoys adhere to the following code: "White, intermittent, flash frequency, 20 sec." Canadian law states that a letter or name can be applied to the body of a buoy. Light-reflecting coatings, if they are present, must be red or yellow. Buoys may bear a radar reflector and an acoustic signaling device. Moreover the buoy itself must be a good radar reference point. The code of a light buoy is: "White, intermittent, three flashes per minute."

In conclusion we would like to turn our attention to the problem of providing notice of SSOD placed at sea, of activities of scientific research vessels, and of events that may hinder free navigation or fishing at sea. This information is published in the USSR and in other countries in various documents and collections. They are not legally binding documents, and they do not have the power of law.

The problem of recognizing some national document as binding to another party may be resolved by signing a special interdepartmental agreement.

For example on 24 October 1973 the USSR Ministry of Defense Main Administration of Navigation and Oceanography and the Danish Royal Administration of Navigation and Hydrography signed a treaty calling for cooperation to insure navigational safety in those regions of the Baltic Sea, the Baltic Straits, and the North Sea for which both countries published marine charts and navigational guides, and in which they are responsible for marking fairways and implementing other navigational measures.* Article 1 emphasizes that the parties will regularly exchange shipping notices. Thus parties to the treaty recognized the official nature of such notices. They also promised to exchange information on changes in navigational conditions which cannot be publicized promptly in the usual shipping notices.

* For the text, see "Supplement to the Collection of Regional Treaties and Laws of Foreign Countries Concerning Navigational Issues," 1974, p 23.

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INTER-ASIAN AFFAIRS

BRIEFS

NEW ZEALAND ZONE INTRUSION--Auckland, Tues: The Ministry of Agriculture and Fisheries has charged the master of a South Korean fishing boat with fishing illegally inside New Zealand's 370km (200-sea-mile) zone. The boat was halted by the frigate Tranaki about 64km off Raoul Island, north of New Zealand, last week and brought to Auckland under naval escort.--AAP. [Text] [Perth THE WEST AUSTRALIAN in English 11 Jul 79 p 57]

CSO: 5200

FEDERAL, STATE GOVERNMENTS AGREE ON OFFSHORE RIGHTS

Perth THE WEST AUSTRALIAN in English 30 Jun 79 p 13

[Text] Canberra: The Federal Government has given new offshore rights to the States--after 2 1/2 years of talks with them.

They will now have jurisdiction over the 5km territorial sea.

Previously, under a High Court decision of 1975, the Commonwealth had control of the low-water mark.

Agreement between the Commonwealth and the States was one of the happier outcomes of the Premiers' conference.

But the Attorney-General, Senator Durack, pointed out yesterday that while the States would be given title to the seabed in the 5km zone, the Commonwealth would preserve use of it for special purposes.

DEFENCE

These would include defence, submarine cables, navigational aids and pipelines.

The Great Barrier Reef Marine Park Act would continue to cover the whole Barrier Reef region.

Senator Durack said he hoped that legislation would be introduced in Federal Parliament in the Budget session.

Joint Commonwealth-State authorities would be set up to regulate offshore petroleum mining beyond the territorial sea—but applications for permits and licences would still be made to State mines ministers.

The Commonwealth would retain a power of veto on major decisions with national interest.

Specified off-shore fisheries would also be administered by joint authorities—or by the Commonwealth or by a single State, Senator Durack said.

SIGNIFICANCE

The Prime Minister, Mr Fraser, said he believed that the agreement was of far-reaching and great national significance.

"I think it is a classic example of the way in which patient negotiation can bring about a successful conclusion," he said.

The authorities for each State will consist of a minister from the Commonwealth and one from the State.

They will be based in Canberra except for the WA body, which will have its headquarters in Perth.

The Premier, Sir Charles Court, said that WA had negotiated a special arrangement with the Commonwealth over the control of off-shore mining administration.

The Commonwealth had agreed to restrict its power to veto decisions by the State. Other States had long ago agreed to allow the Commonwealth

an unqualified right of veto.

However, WA could not accept such a situation because of its remoteness, size and the resources-based nature of its economy.

"We held out for a better deal and the Prime Minister has now accepted the validity of our case," he said.

"When the Federal minister on the joint authority does not agree with a State proposal, the Commonwealth will have the power of veto—but only where it believes the proposal will endanger or prejudice the national interest."

POWER

The final veto power also would not rest with the Commonwealth Minister.

The Minister would have to recommend to the Prime Minister that the veto be used and he had to advise the State of his recommendation within 30 days.

He would also have to specify the way in which the national interest would be endangered or prejudiced.

"An additional safeguard is that if the State Premier wishes to do so he may make representations to the Prime Minister, who will then be ob-

liged to refer the issue to Federal Cabinet before making his decision," Sir Charles said.

"This procedure achieves two important objectives for us.

TAKEOVER

"It will prevent the recurrence of the perverseness and takeover mentality we saw from the Whitlam government and it recognises WA's ability and experience in the development of natural resources."

Sir Charles said that the location of the WA authority in WA was a further benefit for the State.

The authority would be closer to the action—an essential requirement in the natural-resources field.

"It is not an area which—as experience in recent times has demonstrated—can be controlled by bureaucrats divorced by distance from having to live with the consequences of their actions," he said.

"I have no doubt the agreement will work effectively because it rests on a sensible basis of co-operation and mutual recognition of the abilities and responsibilities of the respective governments."

AUSTRALIA

WEST AUSTRALIA PREPARES FOR INTRODUCTION OF 200-MILE ZONE

Perth THE WEST AUSTRALIAN in English 4 Jul 79 p 19

[Text] The State Government is selecting six more officers to help deal with the increased fishing that will result from the introduction of the 370km (200-sea-mile) zone off WA.

Three inspectors will be located in North-West ports and three technical officers will collect information on the extended fishing.

A Department of Fisheries spokesman said yesterday that a tight rein would be kept on fishing in the zone.

The new officers would be involved with foreign vessels that fished by agreement with Australia, probably in joint ventures with Australian fishermen.

Vessels fishing under agreement would have to call at WA ports before and after their trips so their catches could be inspected.

Crews would have to fill in log books on fishing activity and these would be checked.

Official observers would go out on some boats.

Technical officers would gather information on catches, including the type and size of fish taken.

This would help in the management of the fishery.

FOREFRONT

The Minister for Fisheries and Wildlife, Mr

O'Connor, said yesterday that the new officers would help to keep WA to the forefront of the Australian fishing industry.

He told the 20th meeting of the Western Fisheries Research Committee that the WA fishing industry was worth \$86 million—about a third of the Australian total.

He said that Australia was poised at the threshold of a new era of fisheries development with the new zone.

However, the highest level of co-operation between fisheries administrators, scientists and the industry was imperative if balanced exploitation was to be achieved.

Feasibility fishing projects involving Australian and overseas groups had been initiated to test fisheries resources not being exploited.

The information from these projects had to be carefully analysed by the fishing industry for economic and marketing factors and by the Government to determine the extent of the resource.

COMMONWEALTH-STATES AGREEMENT ON SEABED ANALYZED

Legal Doubts Explained

Canberra THE AUSTRALIAN in English 16 Jul 79 p 7

[Article by AUSTRALIAN legal writer, Trish Evans: "Still at Sea"]

[Text]

THE fight with the Commonwealth for exclusive power over the sea and sea-bed has been won by the States — for the time being.

The Commonwealth has agreed to refer its power over off-shore waters up to the 3-mile limit, under new legislation to come before federal parliament in the budget session.

But there is considerable legal doubt about the method chosen to bring about the change in constitutional powers.

If the new legislation is challenged in the High Court, as seems likely, we could have a period where the legality of issued mining and fishing licences and exploration permits could be uncertain. Control began in the late 1960s, when the issue split the Gorton government. It has since caused internal party divisions and been the most contentious issue in federal — State relations.

The off-shore regions of Australia contains potentially im-

mense resources of oil, minerals, gas and fisheries.

Environment and pollution control over these resources are also issues.

At the recent Premiers' Conference it was agreed the States would have power over all the resources that lie within the 3-mile limit, known as the territorial sea.

This would include Queensland where the State government would have powers over the territorial sea and islands, except in areas defined as the Great Barrier Reef Marine Park.

In WA the area known as the North-West Shelf would continue to be controlled by the State government up to 3 miles, and beyond that it would be in federal control under the new agreement.

Under this agreement, it is believed that royalty sharing on a 60:40 basis between the Commonwealth and States could apply on resources mined beyond the 3-mile limit. This would be similar to the present petroleum royalties.

It is understood that the new agreement would revise the whole basis of revenue sharing from off-shore resources.

That the States should have control over their immediate off-shore area is "sheer commonsense and practicality in the absence of overriding national or international considerations," according to the Commonwealth Attorney-General, Senator Durack.

The fact that the Commonwealth is in difficulties over federal — State differences in relation to the environment has been demonstrated this year by confusion and embarrassment over the Great Barrier Reef.

The move toward national control of the off-shore area which began in the late 1960s was inspired by international discussions on the Law of the Sea, when vast resources of the sea bed were provoking international speculation and competition. The need for their international regulation was apparent. Australia, as a na-

tion, has negotiated at the protracted UN conferences on control of the sea and sea-bed. It will, as a nation, abide by the final agreements reached.

In 1973, the federal government passed the Seas and Submerged Lands Act to establish Commonwealth sovereignty over the territorial sea, its sea bed and air-space. The Act included sovereign rights for the exploration and exploitation of Australia's continental shelf.

Together, all the States challenged the Commonwealth's power for this legislation in the High Court. The High Court decided, in 1975, that the federal government had "primal sovereignty over the coastal and adjoining off-shore maritime domains."

This decision has now, in effect, been overturned by agreement between the federal and State governments.

In his judgment on the States' 1975 challenge to the Commonwealth, Chief Justice Sir Garfield Barwick, said: "Upon the enactment of the constitution, any rights or powers which the former colonies might have had in the territorial sea, sea-bed and air-space or on the continental shelf became vested in the Commonwealth. The emergence of Australia as an independent State confirmed this situation."

In the same case Mr Justice Murphy said: "The area of the territorial sea is tens of thousands of square kilometers. Their resources are probably worth thousands of billions of dollars. They belong to the nation, not the States. The rights over them are vested in the government of Australia on behalf of all the people of Australia."

The Premier of WA, Sir Charles Court, has never accepted that proposition. In March this year he stated his belief that the State government, having power and control over the land of the State, should have the same jurisdiction over the territorial sea. The Commonwealth's powers should be the same over the sea as over the land, he argued. Commonwealth responsibilities should be confined to defence, navigation and international obligations.

Sir Charles said he had felt so strongly opposed to Commonwealth off-shore control he had decided to defy the federal government between 1972 and 1973 when he experienced "the menace of destructive anti-exploration policies."

"We decided to defy Canberra and renew the permits to the companies involved in exploration in off-shore areas. It was a decision never lost a moment's sleep. In fact I enjoyed it," he said.

Permits are presently issued by the WA Mines Department, under delegated authority from the 1967 Petroleum (Submerged Lands) Act.

Sir Charles has been consistent in his opposition to federal control or intervention. Although at the June 1978 Premiers' Conference basic agreement was reached on extending State powers, and on joint authority over off-shore petroleum and minerals, Sir Charles pressed for further Commonwealth concessions and exclusive State control. He expressed particular concern that if the Commonwealth gave its powers to the States now, another Commonwealth government could retract them in the future.

His overriding concern was to make the transfer of power as irrevocable as possible under the law.

At the last Premiers' Conference his main concerns were that federal intervention should be kept at a minimum and that the legislation would endure.

From the States' point of view, the best way would have been a referendum to extend State boundaries. But that would have entailed the possibility of defeat, and considerable cost.

The conservative States argued in favor of a joint State approach to the UK parliament to request it to alter the law. But the exercise of UK legal power over Australia was not acceptable to the federal government nor politically acceptable to the Labor States.

The "water-tight" solution that has been decided on is to use section 51(38) of the Australian constitution. The section has not been used in this way before.

Like much of the constitution, its precise meaning is obscure. Basically, it allows the States to request the Commonwealth to legislate according to "exercise within the Commonwealth any power" only so long as the UK parliament could have exercised that power at the time the constitution was established.

This means the States will each have to pass legislation ("Request Bills") requesting the Commonwealth to legislate according to their agreement over the territorial sea.

There is legal doubt surrounding this method of referring power, which could not be resolved until it was brought before the High Court. Legal opinion is divided as to the constitutional validity of the arrangement.

We could be back in the situation of legal uncertainty which existed prior to the High Court's 1975 decision. This could mean that grants of exploration and mining licenses, and prosecutions of foreign fishing vessels, might be invalid.

Defense by Attorney General

Canberra THE AUSTRALIAN in English 19 Jul 79 p 8

[Letter to the editor from Federal Attorney General Peter Durack]

[Text]

YOUR newspaper and its legal writer, Trish Evans, are to be congratulated on focusing attention on the important decisions made at the Premiers' Conference on a new offshore settlement between the Commonwealth and the States (*The Australian*, 16/7).

As I pointed out in a recent statement from which your legal writer quoted, in federations such as ours there are difficult and intricate problems in matters of offshore jurisdiction.

Australia's experience in this is by no means unique as similar questions arose in the U.S. and subsequently in Canada. In their cases, as in the case of Australia, the constitutional ruling by the courts was that full jurisdiction on the part of the central government extended right up to low water mark.

The offshore constitutional settlement that has now been agreed upon aims to balance this decision. It will ensure that the States will have adequate powers to deal with matters in the territorial sea. History, common sense and the sheer practicalities make these matters for State administration rather than central control, in the absence of overriding national or international considerations.

As part of the constitutional settlement the Commonwealth Parliament on the request of all the States is to pass a Powers Bill extending State powers in the 3-mile territorial sea. As your legal writer correctly observes this legislation will be passed under a previously unused power contained in Section 51 (38) of the Australian Constitution.

This section enables Commonwealth and State parliaments if they concur to produce legislative results that could only have been accomplished by the United Kingdom Parliament at the time of the establishment of the Australian Constitution.

Your legal writer finds this proposal "fraught with problems." I think that a little reflection on the alternatives and the difficulties they would present — a national referendum or an approach to the United Kingdom Parliament — indicates that resort to Section 51(38) is the most practicable course.

It is certainly true that section 51(38) has never been used before and therefore the outcome of any challenge cannot be known with certainty. Sir Robert Megarry, at the recent Australian Legal Convention, quoted some words of Lord Denning on doing things for the first time:

"What is the argument on the other side? Only this, that no case has been found in which it has been done before. That argument does not appeal to me in the least. If we never do anything which has not been done before, we shall never get anywhere. The law will stand still whilst the rest of the world goes on; and that will be bad for both."

Be that as it may, the legal basis for the implementation of the constitutional settlement, so far as the territorial sea is concerned, will also rest on other foundations. The full extent of existing State extra-territorial power is perhaps unclear, but the High Court has made it abundantly clear that the States do possess significant extra-territorial powers in their own right. In 1976 in *Pearce v Florence* the court specifically upheld Western Australian laws regulating fishing in the territorial sea.

In addition, however, the Commonwealth proposes under the Constitutional settlement to give the States title to the seabed in the 3-mile territorial sea, while preserving Commonwealth use of the seabed for certain specified national purposes.

The important step of conferring seabed title on the States, which was taken also in the U.S., will not only assist the implementation of the settlement, but will also provide a reasonable guarantee that the settlement will not lightly or ever be overturned.

The offshore settlement is a practical and workable solution of a problem which has bedevilled Commonwealth-State relations for a decade. This solution, including the proposed use of section 51(38) which has been agreed on by all State premiers, constitutes a milestone in Commonwealth-State co-operation under our federation.

PETER DURACK
Federal Attorney-General

AUSTRALIA

BRIEFS

QUEENSLAND ZONING OPPOSED--Any further imposition of fisheries zoning in Queensland would be opposed by the Queensland Commercial Fishermen's Organisation. The organisation's State council said yesterday Federal Government zoning in the Gulf of Carpentaria had operated to the detriment of genuine fishermen. The council said it appeared people were granted rights to fish in the Gulf when they obviously had no intention of fishing there. These people subsequently sold their rights. The fishermen's council chairman (Mr. D. O'Connell) said that as a result of the Gulf zoning, companies had been able to gain control of the prawn fishing, and smaller operators were forced to withdraw. Alternatives to zoning included restriction on the issuing of State master fishermen's licences, limitations on vessel size, gear, and propulsion power, and closed fishing areas as determined by the fishermen's organisation and the Queensland Fisheries Services. [Text] [Brisbane THE COURIER-MAIL in English 11 Jul 79 p 12]

BORDER TREATY CHALLENGE--Sydney.--An action challenging parts of the Torres Strait Border Treaty came before the High Court yesterday. A Torres Strait islander Mr. Carlamo Wacando is seeking a High Court declaration that Darnley Island is not part of Queensland. Mr. Wacando claims Darnley is beyond 100 km from the Queensland coast and should not come within the scope of the treaty. Mr. J. K. Hughes (for Mr. Wacando) told Mr. Justice Gibbs yesterday the treaty between Australia and Papua-New Guinea had been signed but not ratified. He asked for the action to be heard as a matter of urgency by a bench consisting of all seven judges of the court. Mr. Hughes said the matter was urgent because negotiations were taking place, particularly in regard to prospecting, which could affect the Torres Strait islands. Mr. M. H. McLelland, Q.C. (for the Federal Government), told Mr. Justice Gibbs the Commonwealth would be questioning Mr. Wacando's right to bring his action. Mr. Justice Gibbs directed both parties to prepare stated cases and lodge them with the court. [Text] [Brisbane THE COURIER-MAIL in English 11 Jul 79 p 7]

SATELLITES AGAINST POACHERS --Ipswich.--Satellites could help in the fight against Taiwanese clam boats poaching on the Great Barrier Reef, the Acting-Premier (Dr. Edwards) said yesterday. He said State and Federal authorities were concerned that inaccurate or out of date charts were hampering patrols. Highly sophisticated American survey satellites might hold the key to mapping

vast area of the reef, he said. Dr. Edwards was opening a mapping and satellite display at the Ipswich Centre. The two-week display, arranged by the Survey and Valuation Minister (Mr. Greenwood), features the work of Queensland's mapping and surveying department. [Excerpt] [Brisbane THE COURIER MAIL in English 11 Jul 79 p 10]

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ADMINISTERING 1.4 MILLION-MILE ECONOMIC ZONE BRINGS PROBLEMS

Canberra THE WEEKEND AUSTRALIAN in English 21-22 Jul 79 p 12

[From Stuart McMillan in Christchurch]

[Text] **B**Y COUNTING all its islands on a map and putting circles representing 200 nautical miles around them, New Zealand acquired an Exclusive Economic Zone of 1.4 million miles - the fourth largest EEZ in the world.

It also acquired, it hoped, a growth industry of fishing and a substantial export industry. Twelve months after the EEZ's introduction, hopes are still high. What it did not have was a fishing fleet of larger vessels.

At the end of 1978 the NZ fishing fleet consisted of 5430 vessels, nearly all small, and typically skipper-owned. In one year, the fleet had grown by about 200 vessels, but most fished close to shore.

Some new export markets were developed in the first year of expansion, but the growth has not been spectacular. A number of firms have needed temporary government assistance to bail them out.

Under a bill introduced to parliament this week, wholly NZ-owned ventures will be better protected. Joint ventures with another country under which a NZ company charters a larger foreign vessel will not have the same fishing rights as NZ-owned ventures.

The opposition tried to get the bill referred to a select committee but was defeated.

However, one part of the bill has given offence to others than the op-

position. The section empowers fisheries inspectors to enter restaurants with or without a warrant to see if illegal fish are sold.

The possibility that the inspectors could seize a fish from a diner's plate has been raised.

Restaurateurs are up in arms. They say it is all right to inspect kitchens or the refrigerators, but they draw a line at inspectors taking a fish from a plate. So, depending on the political pull of the restaurateurs, the bill may yet be delayed.

The provisional figures for the total catch of shellfish in 1978 was 3908 tonnes taken by NZ. For crustacea (rock lobster) it was 3723 tonnes, and finned fish amounted to 77,346 tonnes.

The EEZ brought NZ far more than its fishermen could handle. Under the requirements of the new law of the sea, NZ had to allow others to fish beyond the 12-mile limit in the EEZ. A total of 13 countries came knocking on NZ's door seeking fishing rights.

The government treated them as suitors, looking at what each was offering in return.

The balance of trade with the Soviet Union was near enough to 40 to one in NZ's favor, so the Soviet Union got fishing rights.

Trade with South Korea was growing in leaps and bounds, so South Korea got rights.

The biggest traditional fishing country around NZ was Japan. Access to Japan's market for NZ agricultural produce was limited. Thereupon a long dispute began. It appeared to end in a stalemate.

The government had made so much publicity of the use of fishing rights as

a lever to prise open Japan's markets it was difficult for it to be seen to reduce demands.

The Japanese, wittingly or unwittingly, came to the rescue. They demanded the final agreement be kept secret. What NZ got out of it remains unknown to the public to this day. (A few minor tariff cuts would be an informed guess).

But that was some months after the EEZ had been introduced and after the Soviets and the South Koreans had already been fishing. The Japanese got a quota that year, but were not impressed by its size.

For the 1978-1980 season the total allocation to foreign trawling was 161,500 tonnes: 65,000 tonnes to the Soviet Union, 25,500 to South Korea, and 71,000 to Japan. Nineteen Soviet vessels were licensed, seven for South Korea, and 14 for Japan.

The allocation for bottom-lining was 25,500 tonnes: 12,500 tonnes to be taken by 11 South Korean vessels and 13,000 tonnes by nine Japanese vessels.

The 1978-1979 squid-jigging is still on. Four South Korean vessels are allowed to take 1000 tonnes and 100 Japanese vessels are allowed to take 20,000 tonnes.

Both the Soviet Union and Japan also trawl for squid. The allocation for the Soviet Union, which usually uses 15 vessels, is 15,000 tonnes, and Japan has been allocated 4000 tonnes.

Foreign fishermen are not allowed to fish within 12 miles of the shore and, in some areas, not within 50 miles of the shore.

The new bill provides for bigger fines for breaching fishing regulations and permits confiscation of vessels.

NZ has generally been cautious about approving joint ventures with foreign countries, though some have gone through, mainly with South Korea, and one with Germany.

The arrangement is generally that the foreign crew works the boat and a few NZ trainees are taken on board.

The overall intention is that NZ fishing fleets will one day work the whole zone, but that is still a long way off.

STIFF PENALTIES TO BE IMPOSED ON FOREIGN ILLEGAL FISHING

Buenos Aires LA PRENSA in Spanish 6 Jul 79 p 8

[Text] The national executive branch has decreed Law 22,018, raising the amount of the fine established for ships of foreign registry found fishing in our territorial waters.

This fine now may go as high as \$1 million, or its equivalent in Argentine currency at the rate of exchange current at the time of payment. The fine should be paid by the ship's owner in a responsible manner.

In addition to the fine--set at a minimum of \$10,000--the catch, the fishing tackle and equipment and the vessel itself may also be confiscated.

Cumulative Sanctions

The sanctions referring to levying the fine and seizure of the catch will be of a cumulative nature. That is, the authority levying the fine will be empowered to order additional penalties, including seizure of the tackle, equipment and vessel.

The latter sanction--confiscation of the ship--may be carried out when the infraction is of a serious nature, leading to the assumption of a deliberate intent to violate the rules and regulations decreed by the Argentine nation.

In evaluating these circumstances, authorities will take into account whether or not the act was repeated, the number of vessels participating in it, the fishing methods used, the quantity and species caught and the captain's conduct at the time of detainment of his ship.

The Argentine Naval Superintendency can order the guilty vessel to be detained in an Argentine port until the fine is paid.

When the Argentine Naval Superintendency requires the assistance of other agencies to curb the infractions, any expenses incurred by the latter will be reimbursed out of funds collected by levying the fine and selling the confiscated fishing tackle, equipment and ship at public auction.

Fundamentals

In the clauses of the current law--replacing the text of article 12 of Law 17,500, amended by Law 20,136--it is stated that one of the reasons for the increase in the fine is that it is meager and bears no relationship to the damage caused to the nation's economic interests.

It is also noted that the acts proven at the present time are not being committed by isolated vessels, but by fishing fleets composed of heavy ships whose operations are depredating the living resources of our territorial waters.

In view of the kind of operation noted in the preceding paragraph, it adds, the present fine does not serve its purpose as a preventive or punishment, when evaluated at the time of the sanction of the law. The foreign fishermen speculate on the likelihood that some of the ships will succeed in reaching international waters without being apprehended, and any fine that may be levied on those detained cannot compare with the damage caused by all of the ships together.

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INVASION OF NATIONAL FISHING WATERS DENOUNCED

Buenos Aires LA NACION in Spanish 10 Jul 79 p 8

[Editorial: "Pirates in Argentine Waters"]

[Text] These are the raids of contemporary pirates, whose ships bear no surly masks upon their prows; no sinister flags wave atop their masts, and no rows of burnished artillery lie in ambush behind the portholes.

These are actually modern vessels, endowed with a full array of technical equipment including radar, sonar, communications equipment and delicate electronic detection mechanisms. On occasions they are even equipped with all the installations of an actual floating factory. They do not generally make solitary raids, like the pirates of old, but prefer to sail in well-organized fleets, moving in search of their spoils. The latter have nothing in common with the booty spotted by the old pirate captains through their spyglasses from the bridges of their ships. Today's quarry lies beneath the surface, hauled up with giant nets powered by mechanical derricks. With their holds replete with the glistening bounty, caught in forbidden waters, the looters set sail for their distant ports of origin, which are not infrequently Soviet or Eastern European.

Argentina's territorial waters, with their rich fishing shoals and varied marine fauna, appear to be a prized foreign territory for the professional clandestine fishermen. Until now, the penalties levied have been very light in comparison with the magnitude of the spoils. Even when one or two members of the fleet were caught, the rest of the ships could get away with a cargo immensely more valuable than the fines levied. From now on, according to an amendment of the respective law, fines may go as high as \$1 million, and they will be complemented by other measures of a punitive nature, in addition to the corresponding confiscations. Let us hope it will not be necessary to resort to even more drastic and dissuasive sanctions to put a stop to this practice of international maritime crime.

POSSIBLE KRILL CATCH ESTIMATED AT 1 MILLION TONS A YEAR

Buenos Aires CONVICCION in Spanish 19 Jul 79 p 8

[Editorial: "When Will We Start Fishing for Krill?"]

[Text] The near extinction of whales in Antarctic waters has brought about a considerable increase in krill, which is their natural food. This increase in the abundance of the little crustacean, which is similar to the shrimp, is held to be one of the reserves of protein that will help to alleviate the very serious problem of feeding the hungry, for which the prospects seem very bad in view of the population explosion.

There has been persistent talk about krill throughout the world for some years now. Already, not a few countries have outfitted large fleets of refrigerator ships that are catching growing quantities of the crustacean. The krill already enjoys a good market in the world, whether directly for human consumption--as krill paste--or indirectly, as a cheap and important ingredient in animal food.

We have been talking and writing about krill in our country for some two years now, and some steps are now being taken to begin taking advantage of this fabulous potential resource, which constitutes a possible catch of a million tons annually in Argentine waters alone, without depredating the species. But we are not catching krill or processing it, nor are we consuming it or exporting it to the countries that need it more than we do. We know it is not easy to set up a new fishing industry, particularly in countries such as ours that are far behind in this area. But we also know our marked tendency to postpone finding solutions to urgent problems. However, empirically speaking, we feel we would have to have concrete facts at hand and a more or less definite date set to begin fishing for krill, promoting its industrial processing and subsequent marketing of a product that has already encountered very good world markets.

We do not want to err on the side of being too hasty, but we do wish to point out that already there are many good-sized vessels, flying under different flags, that are filling their holds with krill. Evidently, governments and outfitters in those countries acted with the speed necessary to make this needed exploitation of a natural resource a reality.

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DEVELOPMENT OF MOROCCAN POSITIONS ON LOS DISCUSSED

Paris MAGHREB-MACHREK in French Apr-May-Jun 79 pp 50-54

[Article by Mohammed Bennouna]

[Text] The Third UN Law of the Sea Conference is going into its 10th year.¹ It is commonly known that its goal is to prepare an agreement covering all sea-related problems and one which the representatives of 158 nations can endorse. This is nearly an impossibility and an especially tricky task, since at the same time the legislation of governments has brought about unprecedented upheavals in traditional maritime law. Thus no less than six sessions were required before a "composite interim negotiating text" of nearly 400 articles could be produced in New York in 1977. It was on the basis of this text that the proceedings of the eighth session were organized, which met in Geneva from 19 March to 17 April 1979. The bone of contention between industrialized countries--the United States in particular--and the so-called group "of the 77" now lies in the former's intention to utilize their technological lead to undertake the costly exploitation of seabed mineral resources without waiting for the enactment of international legislation. This new heated exchange in the North-South "duel" has superseded the confrontation over the establishment of an exclusive economic zone, rejected again yesterday by the maritime powers; this concept is now tending to acquire an actual consensus. However, if the existence of this zone no longer seems challenged, the substance of the laws to be enforced therein may still give rise to controversy.

All Arab nations, without exception, have a varying degree of access to the sea; but the diversity of situations and resources has not led them to adopt a common position. Morocco, on the other hand, bordering on a strait subject to increasing maritime traffic, bathed on two sides by waters abounding in fish, possessing a continental shelf in which promising signs of hydrocarbons have been discovered, was cut out to play an active role in the conference's many negotiating groups. But is Moroccan public opinion sufficiently aware of the prospects offered by control of maritime space and of the responsibilities of international solidarity deriving therefrom?²

The Faculty of Legal, Economic and Social Sciences of Rabat thus took the step to hold, shortly before the departure of Moroccan experts for Geneva, a seminar on "Morocco and Law of the Sea."

These busy days³ made it possible to precisely determine the main stumbling blocks of a complex problem. They were also the time of an always polite confrontation, and filled with mutual lessons in everyone's opinion, of legal specialists and experienced practitioners intimately familiar with the subject, the limitations and discrepancies between facts and theoretical considerations. All of the speeches and debates, as well as the recommendations adopted at the close of the seminar, are to be published in a special issue of the REVUE JURIDIQUE, POLITIQUE ET ECONOMIQUE DU MAROC, edited by the Faculty of Legal, Economic and Social Sciences of Rabat under the direction of Associate Professor Mohammed Bennouna. Mr Bennouna was kind enough to allow us to be the first to publish his introductory report as well as the despatch from Professor Fathallah Oualallou, representative from Rabat, submitting the bill on the establishment in Morocco of an exclusive economic zone.

Formulation of National Sea Legislation

A simple look at a map makes it possible to gauge the extent to which Morocco is concerned with most, if not all, matters of the sea. Visibly lying opposite Europe, participating in Mediterranean civilization while finding it hard to resist the appeal of the open sea, bordered by islands and islets, this far western country has been involved in all the vicissitudes of maritime history and the formulation of rules governing human activities at sea.

Being a crossroads of Arab, African and European influences is certainly a privileged situation, but also a dangerous situation, since with the beginning of the 15th century Morocco very quickly became the object of various covetous desires of overseas powers intent on acquiring control of major navigational and trade routes by occupying parts of the Moroccan coast, setting up fortified trading posts or camps.

Traditional Moroccan practice actually reveals, as Hassan Ouazzani demonstrates in his thesis devoted to this subject,⁴ that Morocco has concluded an impressive number of agreements on trade and the safety of maritime navigation. At the very time that the Netherlander Grotius published his famous work in 1609 defending "Mare Liberum," Morocco signed an actual treaty with the Netherlands on 24 December 1610.⁵ Most of the agreements concluded by Moulay Ismail, and especially by Mohammed Ben Abdallah in the 18th century, guaranteed freedom of navigation on a mutual basis to develop trade with Europe.

This situation gradually led the makhzan to place the country's foreign relations in the same category as its maritime relations, devising no contact

with other sovereign nations by land until 1830. The minister of foreign affairs was none other than the "Wazir-al-Bahr," minister of the sea.

Although it took part in drawing up common law, Morocco was unable to preserve its territorial integrity and had to accept the establishment of foreign enclaves on its coast, despite fierce and continuous resistance. Ceuta, Melilla, the Zafarin Islands, Penon de Velez de la Gomera and Alhucemas are the remnants of Spanish colonial policy; their liberation leaves no room for doubt and depends on the formulation of a firm and precise political calendar, separated as much as possible from the circumstances of Moroccan-Spanish relations. From the standpoint of law of the sea, it is certain that these enclaves, whose occupation is illegal, can produce no legal effects at sea, as evidenced by the layout of Moroccan base lines for calculation of territorial waters,⁶ as well as by the noted speech of the Moroccan representative to the Third UN Law of the Sea Conference in the spring of 1975.⁷

Among Third World countries, Morocco, like certain Latin American countries, was faced very early with maritime questions and with their intimate relationship to national sovereignty and also to the development of international cooperation.

One of the few African countries to participate in both the First and Second UN Law of the Sea Conferences in 1958 and 1960, Morocco nevertheless did not sign or ratify the four 1958 Geneva conventions concerning territorial waters and contiguous zones, the open sea, the continental shelf, fishing and conservation of open-sea biological resources.

It is true that of the 86 nations participating in 1958, to which the Sudan and Cameroon were added in 1960, Third World countries barely managed in number to counterbalance the industrialized countries and were moreover strongly divided. Thus it is not surprising that under these conditions, they were unable to obtain acceptance of their vital interests.

Regarding the most delicate questions of the extent of territorial waters and the exclusive fishing zone, Morocco participated first in 1958 (proposal of the eight powers) and then in 1960 (proposal of the 16, then 18 powers) in the efforts by developing countries to reach an acceptable solution.⁸ It was a matter of recognizing the coastal nation's right to set the extent of its territorial waters at 12 nautical miles or to have in this connection, beyond the territorial waters, a fishing zone in which it would exercise "the same rights to fishing and exploitation of the sea's biological resources." Unlike the American-Canadian proposal, this fishing zone would be exclusive.⁹

The proposal of the 18 powers may seem very modest compared to the current development of law of the sea; the fact remains that the Geneva discussions prefigured the debate which would later take place during the Third UN Conference. The work of Geneva was appraised in different ways; some described

it as a great success in codifying an essential part of international law; others, on the contrary, did not fail to point out gaps and lack of precision, particularly concerning the extent of territorial waters and the definition of the continental shelf, as well as the ineffectual nature of the agreements on fishing and conservation of marine biological resources.

It must be said that the nations accepted the Geneva agreements with a great deal of reserve: there were only (as of 31 December 1977) 56 nations supporting the open-sea agreement, 52 in the case of the continental shelf, 45 in the case of territorial waters and contiguous zones and only 35 nations in the case of fishing and conservation of open-sea biological resources. This is really only a minority at present.

The Geneva texts were not compulsory and have not been imposed on all nations as the basis of a world order of the oceans. However, many countries have been inspired by some of their provisions in drawing up their national laws. Such was Morocco's case. In fact, as early as 21 July 1958 or less than 3 months after the agreements were available for signing, a decree was adopted with a statute on hydrocarbons and included the Geneva definition of the continental shelf in its article 3.¹⁰ Yet it must be noted that with regard to delimitation, the 1958 statute retained only the median line,¹¹ leaving no room for an agreement or special circumstances, as did article 6 of the agreement on the continental shelf. The fact of purely and simply including an inadequate definition and excessively simplifying the delimitation criteria shows the extent to which this text was hastily drawn up at that time by the new independent nation, which was still trying to take up all the powers of sovereignty.

As for the Geneva agreements, they gradually proved to be inadequate as a result of technological advances opening up new possibilities for more intense exploitation of marine resources and under the pressure of the movement of impoverished countries anxious to contain the growing appetites of the industrial powers.

National claims were expressed in the form of a series of unilateral agreements restricting the principle of freedom on the high seas without being the expression of a very precise doctrine initially. Latin American countries certainly quickly opted in favor of the 200-mile limit, although for specific and economic reasons, as shown by the historical record of the declaration of Santiago signed on 18 August 1952 between Chile, Ecuador and Peru.¹² There was nevertheless "a difference in position among those claiming territorial waters and those claiming the exercise of special jurisdiction."¹³ African countries were more hesitant; the extensions concerning territorial waters and fishing zones ranged from 12 to 30 to 100, 150 and 200 miles.

It was not until 1972 that Latin American countries on one hand, and African countries on the other, reached an understanding for the establishment of a "patrimonial sea" and an "economic zone."¹⁴ Of course, Morocco

participated in drawing up the declarations of the African seminar at Yaounde and of the conference of OAU members in May 1973 on questions concerning law of the sea, taken up at the Mogadiscio summit in July 1974.

Unlike Latin America, Africa has a large number of countries without coast-line (13) and disadvantaged countries; thus it was particularly laborious to work out a compromise; it is still very precarious in many respects. Morocco's position on this matter has always been clear, being open to any form of privileged cooperation with nations of the area, but provided that its procedures are specified by a special agreement.

The conclusions of the Yaounde seminar of experts probably influenced the Moroccan legislator, who assembled a national commission of specialists whose proceedings made possible the adoption of the famous decree of 2 March 1973, establishing the limits of national jurisdictions at sea. Moderation prevailed, resulting in a 12-mile limit of territorial waters and a 70-mile fishing zone calculated on the basis of base lines.

Moroccan Action in International Bodies

It is easier to adopt unilateral agreements and to publish them in an official document than to acquire the appropriate means to take advantage of zones reserved for exclusive jurisdiction. Now as everyone knows, advanced marine technology has been mainly in the hands of the industrial powers and large multinational corporations. The oceans, down to their greatest depths, could possibly be the object of prospecting and exploitation and also be used for the development of global military strategies.

Certain minds quickly became alarmed over this situation and the risks which it involved. In this context we can understand the proposal of Arvid Pardo, Malta's representative to the United Nations, to place on the agenda of the 1967 General Assembly the question of using "sea and ocean beds, as well as their substratum on the open sea beyond the limits of current national jurisdiction, for exclusively peaceful ends and exploiting their resources in the interest of humanity." The Maltese representative had just launched a process in the world organization of reorganizing the entire law of the sea, whose outcome is still not clear at the present time.

The question of peaceful use was discussed mainly within the Geneva disarmament committee. The only concrete result thus far has consisted in drawing up a treaty prohibiting the placement of nuclear weapons and other weapons of mass destruction on sea and ocean bottoms. As Mr Mohammed Bennani demonstrates in his doctoral thesis, the great powers wanted to reserve for themselves this aspect of law of the sea and to negotiate within the Geneva committee, where they occupy a dominant position.¹⁵ Whatever the case, the 1971 treaty protected a part of the sea, up to 12 nautical miles offshore, against nuclear weapons. It was ratified immediately by Morocco, which also participates in the proceedings of the Geneva committee.¹⁶

As early as 1967, the United Nations created a seabed committee assigned to study the Pardo proposal; initially composed of 37 nations, it was then expanded to 42 nations in 1968, then to 86 in 1970 and finally to 91 in 1971; Morocco became a member of the committee in that same year and participated without interruption in its proceedings up to the preparation of a six-volume report, which was submitted to the General Assembly in 1973.

The year 1970 marked an important date in the development of law of the sea, since the General Assembly decided to simultaneously adopt a declaration on principles governing the seabed and to convoke the Third UN Law of the Sea Conference.¹⁷

The first of the two resolutions established the new concept of humanity's common heritage while the second resolution instructed the new conference to draw up an agreement on all aspects of law of the sea, since the assembly was "aware that problems of marine space are intimately linked and must be examined as a whole." The issues of the seabed, zones coming under national jurisdictions and, finally, protection of the marine environment and scientific research were respectively assigned to three large commissions. The conference was to draw up a single agreement and to adopt it, insofar as possible, by consensus.

More than 14 months of discussions, spread over 5 years, have not made it possible to end the third conference. The official commissions have been followed by point-by-point informal meetings and negotiating groups. It is true that the assignment is very vast, complex and technical. The delegations of Third World countries are at a particular disadvantage, being limited in number and suffering from their members' lack of experience and competence. Morocco has nevertheless stood out through initiatives in many vital areas of the conference's activity, whether when national interests were directly involved, as in the case of straits, the economic zone, islands, delimitation or when it was a question of acting in unison with Third World countries to gain acceptance of their concepts of a new economic order, as in the case of humanity's common heritage, protection of the marine environment and scientific research.

As the conference has proceeded, unanimous agreements on specific issues have been concluded, particularly concerning territorial waters, contiguous zones, straits and the economic zone. A list has been made of unresolved issues and negotiating groups have been formed and assigned the following various questions: conditions governing exploitation and policy of resources; financial arrangements; agencies of authority; right of access of nations without coastlines and geographically disadvantaged nations to biological resources of the economic zone; settlement of differences related to the exercise of sovereign rights of coastal nations in the exclusive economic zone; definition of outer limits of continental shelf and division of revenue; delimitation of maritime borders between facing or adjacent nations and settlement of differences related thereto.

The main stumbling block is now represented by the statutes of the International Seabed Authority and by the attitude of the U.S. Congress, which is on the verge of passing a law authorizing American companies to engage in exploitation activities until the adoption of the future agreement.

Have the efforts made for more than 10 years to work out a new ocean order been in vain? Regardless of the outcome of the negotiations, it is certain that they will have contributed to an unprecedented development of law of the sea and one which nations have translated into action by their conduct, their declarations, their legislation and the special agreements which they have concluded. Is it possible to conclude from this recent development of common law that the 1958 Geneva agreements have become outmoded? This is what the French Government maintained before the court of arbitration assigned to render a judgment in the case of France versus Great Britain concerning the continental shelf in the Irish Sea in 1977.

The tribunal rejected this argument, since "it could not consider the agreement outmoded and inapplicable between the parties in the present case," while adding that "this does not mean . . . that it believes it has to rule out in the present case any consideration of common law developments. On the contrary, the court has no doubt that it must take into consideration the development of law of the sea to the full extent that this is pertinent to an examination of the present case."¹⁸

With a transient nature and marked by uncertainty and rapidity of change, law of the sea reflects the general conditions of the development of international society. It is more important than ever to continue to listen to the world and Morocco is most alert to note maritime events wherever they occur in order to act appropriately. Tensions and differences are developing around it and cannot fail to have effects, as is the case in the Aegean Sea between Turkey and Greece and in the Gulf of Gabes between Tunisia and Libya (this latter difference is now pending before the International Court of Justice).¹⁹

The positions which political officials may adopt and jurists defend are supported more and more by precise scientific discoveries of a geological, biological and chemical nature, etc. These studies must be conducted as soon as possible: How is it possible to render a decision on the outer limits of the continental shelf if we do not know the exact shape of the natural extension of Moroccan territory? The Third Conference has actually seen the submission of so-called scientific proposals considering research made by this or that country. Morocco must protect its future even if its current means are modest and do not make it possible to take advantage of the many possibilities offered by the ocean. It must also safeguard the present and see to it that the marine environment is not disfigured and ruined by various kinds of pollution. The risk is real.

In order for these peaceful goals to be achieved, Morocco should protect its security all along its coastline. Law of the sea, more than any other

area of international law, requires the formulation of procedures for peaceful settlement of differences, procedures which are flexible, progressive and capable of avoiding confrontation but also of permitting a gradual adaptation of standards. Morocco has actively taken part in the efforts made under the authority of the conference chairman to achieve an adequate system comprising a full range of mechanisms, including a law of the sea court. Apparently the existence of such a mechanism is not judged sufficient and a tough discussion has developed concerning a review conference which would be assigned, 20 years after the agreement becomes effective, to undertake a new negotiation on the international zone statute.

The existence of procedures for settlement of differences does not prevent Morocco from acquiring modern means to control all maritime activity in zones under national jurisdiction, in order to determine violations and to dissuade other parties from possibly intervening. The events of the day serve to remind us also that the depths of the sea also have attractions and may give rise to threats and dangers of another nature, against which precautions must be taken.

The sea determines the vital aspects of Morocco's development; therefore, the debate must not remain limited to the narrow circle of specialists. It is up to the news media and public authorities to raise public awareness so that everyone will feel directly concerned with the formulation of a maritime policy that is more in keeping with popular aspirations.

FOOTNOTES

1. See LE MONDE of 20 and 24 March 1979 and LE MONDE DIPLOMATIQUE of April 1979, the article by P. Leymarie: "The Use of Seabeds and the Impatience of the Industrialized Countries"; the reference work by Laurent Lucchini and Michel Voelckel: "Nations and the Sea, Maritime Nationalism," NOTES ET ETUDES DOCUMENTAIRES, PARIS, LA DOCUMENTATION FRANCAISE, 10 January 1978, No. 4451-4452.
2. See the speech by King Hassan II on 24 February 1979 at the close of the Conference of the Union of African Members of Parliament, in which he pointed out the need to guarantee the "right to the sea" of African enclaved countries.
3. The seminar was held from 8 to 10 March at the Agronomics and Veterinary Institute of Rabat. The schedule of speeches is listed in the Appendix, p. 59.
4. Hassan Ouazzani, "The Moroccan Practice of Treaty Law," essay on Moroccan traditional law. Thesis, Paris, 1977, p. 40.
5. Agreements cited by H. Ouazzani, text in "Unedited Sources of the History of Morocco from 1530 to 1845," by Count Henry de Castries,

first series, Saadian dynasty 1530-1660, ARCHIVES ET BIBLIOTHEQUE DES PAYS-BAS, Vol 1, Paris, Ernest Leroux, 1906, p. 577+.

6. Moroccan base lines are determined by the low-water mark and right base lines and bay-closure lines are determined by decree. The zone of territorial waters is the zone adjacent to these lines, over which the bordering nation has full sovereignty; Morocco extended its territorial waters from 3 to 12 nautical miles by decree No 1-73-211 of 2 March 1973 (BORM [expansion unknown] No 3-149 of 7 March 1973, p. 391).
7. Speech of Mr El Gharbi on 2 May 1975. Third Conference, official documents, Vol IV, pp 77-78.
8. Document A/conf. 19/ CI/L6 dated 6 April 1960 and document A/conf. 19/ CI/L2/Rev. I.
9. Document A/Conf. 19/ CI/L10 disseminated on 8 April 1960 by Canada and the United States.
10. Decree No 1-58-227 of 4 Moharrem 1378 (21 July 1958) with a statute on research and exploitation of hydrocarbon deposits (BO [Bulletin Officiel: Official Report] No 2386 of 24 July 1958, p 1128).
11. "In the event that the same continental shelf is adjacent to Moroccan territory and to the territories of two or more nations with coasts opposite it, delimitation of the continental shelf is represented by the median line, all of whose points are equidistant from the points closest to the base lines, from which the extent of the territorial waters of Morocco and of each of the nations is measured." The same regulation applies to the lines separating bordering coasts.
12. See Ann Hollick, "The Origin of 200-Mile Offshore Zones," AMERICAN JOURNAL OF INTERNATIONAL LAW, Vol 71, 1977, p 494+.
13. J. Castaneda, "The Positions of Latin American Nations," ACTUALITES DU DROIT DE LA MER, Paris, Pedone, 1973, p 161.
14. In the case of Latin American countries, the Santo Domingo declaration of 7 June 1972, A/AC/138/80; in the case of African countries, the seminar held at Yaounde from 20 to 30 June 1972, A/AC 138/79 and project filed by Kenya with the seabeds committee in August 1972, A/AC 138/SC 11/L10.
15. M. Bennani, "Demilitarization of the Seabed beyond the Limit of Current National Jurisdiction" thesis, Casablanca, 1975.
16. Treaty of 29 June 1971, registration of ratification instruments on 26 July 1971, BORM No 3145 of 7 February 1973.

17. Resolution 2749 (XXV) and 2750 C (XXV) of 17 December 1970.
18. Decision of 30 June 1977, § 47 and 48, cited by Elisabeth Zoller, "The Case of the Delimitation of the Continental Shelf between the French Republic and the United Kingdom of Great Britain and Northern Ireland," *ANNUAIRE FRANCAIS DE DROIT INTERNATIONAL*, Vol. X. II, 1977, Paris, Ed. du CNRS [National Center for Scientific Research], 1978, p 368.
19. Cf. *MAGHREB-MACHREK*, No 77, July-August-September 1977, p 11-13.

11915

CSO: 5200

REPORT ON USFP DRAFT LAW FOR EXCLUSIVE ECONOMIC ZONE

Paris MACHREB-MACHREK in French Apr-May-Jun 79 pp 54-57

[Article by Fathallah Ouallalou]

[Text] On 5 May 1978, during the second session of the Chamber of Representatives, the Ittihadiah opposition¹ submitted a bill for the establishment of a Moroccan exclusive economic zone (ZEE) of 200 nautical miles.

The bill tends to define the area of the zone and particularly the rights and obligations of Morocco and other countries within this zone. It makes reference to the current status of international negotiations being held within the framework of the Third UN Law of the Sea Conference and takes into account the various steps by other coastal nations to establish exclusive economic zones.

The basis for the bill is: the development of international law of the sea and the role of Third World nations; national legislative initiatives and development toward delimitation of a ZEE; the role of the ZEE in economic developments; the place of establishing a ZEE in the context of unification of national territory and independent economic development.

LOS Development and Role of Third World Countries

The legislative initiatives taken by coastal countries to delimit exclusive economic zones have resulted from international practices concerning control of the seas and their natural resources and the continuous development of international law of the sea.

The provisions of the latter have adhered to the principle of freedom of nations to exploit the seas. The literal application of this principle has led to consolidation of the privileges of advanced countries with an absolute monopoly of modern technology in the areas of fishing, mining research and oil exploration in the seabed. The principle of freedom--as we know--was retained in the UN Law of the Sea Conferences held in Geneva in 1958 and 1960 and which were dominated by the developed countries, since

most Third World countries--still colonized--were absent from international bodies at the time.

Once the independence of Afro-Asian nations was proclaimed, national liberation movements made enormous rapid strides by demanding economic liberation as a natural extension of political liberation. In the case of law of the sea, this development was shaped by the demand for the right of Third World countries to control their own potential and natural resources in order to upgrade and transform them in the context of independent economic development and to satisfy the needs and aspirations of their peoples.

It was against this background that underdeveloped countries began to challenge traditional law of the sea and to demand that it be changed in order to serve their national interests. This transformation of law of the sea has become particularly necessary because of growing food needs in underdeveloped economies and the rapid growth of demand for petroleum products, giving rise to the appearance of modern techniques used in mineral prospecting of the seabed and monopolized by advanced countries and multinational corporations.

Based on these factors, the Third Law of the Sea Conference has taken an interest in analyzing the problems connected with formulating a new law of the sea which would give consideration to the protest-demand movement of coastal Third World countries and which would simultaneously satisfy the adaptation-recovery abilities of "technological" countries. Seven conference sessions have been held: in 1973 (New York), 1974 (Caracas), 1975 (Geneva), 1976--two sessions--and 1977 (New York), and 1978 (Geneva).²

From the discussions in progress and the first formulated regulations of the new agreement, it appears that the conference is seeking an international law of the sea which would constitute one of the main lines of development of a "new international economic order" and which would help coastal Third World countries to exploit their marine resources, particularly those of the exclusive economic zone.

National Legislative Initiatives and Development toward Delimitation of ZEE

The governments of coastal countries did not wait for the end of negotiations in progress to take legislative and political steps to delimit their respective exclusive economic zones. These steps may be grouped into three stages:

The first initiatives came from Latin American countries, which played a vanguard role in this area; they were particularly represented by the declarations of the Chilean (23 June 1947) and Peruvian (1 August 1971) governments concerning the establishment of a "maritime zone subject to national laws and sovereignty." These countries decided to apply their own legislation on fishing over a distance of 200 nautical miles, calculated from base lines used to measure the extent of territorial waters. These

initiatives of Latin American Pacific-coast countries were later imitated by Atlantic-coast countries.

The second stage began in the early 1970's, paralleling the development of the movement challenging the world economic order, and through the initiatives of Afro-Asian countries which extended their territorial waters or established an exclusive fishing zone. All these measures subsequently led to the accentuation of the ZEE concept.

On one hand we could single out the choice of certain African nations in favor of "territoriality" and extension of territorial waters (Senegal, 150 miles; Madagascar, 50 miles; Guinea, 130 miles; Somalia, 200 miles) and on the other, the trend of other nations toward delimitation of an exclusive fishing zone (Ghana, 30 miles; Liberia, 200 miles; Morocco, 70 miles).

The idea of establishing a ZEE took shape in the setting of this dual development, mainly in the speech delivered by the delegate from Kenya during the session of the Afro-Asian Advisory Legal Council held in Colombo in January 1971. It would be tempting to draw a certain parallel and to look for aspects of similarity between this vanguard position and that defined one month earlier by the members of the Organization of Petroleum Exporting Countries (OPEC) during their conference in Caracas (December 1970): these were the first landmarks of their common demands, which brought about the Teheran, Tripoli and Geneva negotiations and the movement for recovery of national petroleum resources.

The Addis Ababa communique on law of the sea (May 1973) and that of the African summit at Mogadishu (11 June 1974) were the most official endorsements of the idea of establishing an exclusive economic zone.

The idea quickly blazed its trail and permanently took hold when the advanced countries, which had initially opposed it, were obliged to accept it. Moreover, they adopted it without waiting for the outcome of the negotiations in progress and passed national laws providing for the establishment of exclusive economic zones. This was true of the United States, France, Iceland, the USSR and Spain in particular. The movement for demand of national rights was then followed by the recovery movement.

Role of Exclusive Economic Zone in Economic Development

Who would dare to say today that marine resources do not represent reserves of enormous importance for underdeveloped countries? Awareness of this fact has greatly helped to rapidly advance the movement for delimitation of exclusive economic zones, aimed at:

The exploitation of biological resources and especially fishing, because of the increase in these countries' food needs and the iron hold of advanced countries over this wealth as a result of their domination and mastery of modern technological means. In the case of the sea, more than elsewhere,

what we have called "technocolonialism" in some of our studies is becoming the basic factor in the abusive exploitation of sea and ocean resources by multinational corporations and dominant economies.

The protection of mineral and energy resources in the seabed, their exploitation and transformation.

Protection of the marine environment against acts of pollution and everything which could harm existing resources of national waters and coasts. In fact, protecting the marine environment has become a vital necessity for coastal countries with the enormous increase in maritime oil-tanker traffic and programs for prospecting and exploitation and waste disposal at sea.

Thus the tasks of coastal countries have become more and more complex and they have felt the need to unify their policies for control of all biological and nonbiological resources off their coasts, in the confines of an exclusive economic zone.

Establishment of this zone also makes it possible to transcend the usual dichotomy of the jurisdictions of coastal countries over mineral resources on one hand, which traditional law has classified as part of the continental shelf--a concept which should be restated by legislation in progress to be compatible with the ZEE concept--and on the other, over fishing and delimitation of an exclusive fishing zone.

Affirmation of exclusive economic zones should thus help to transcend a sterile legal duality and to unify the policy of coastal countries concerning all biological and nonbiological marine resources. Such transcendence could create a fundamental link between methods of exploiting resources and their protection and would make the ZEE a major line of overall and coherent economic development, giving consideration to satisfaction of food needs and conversion of raw materials with a view to independent industrialization of underdeveloped countries.

For a Moroccan Exclusive Zone

The features of the Moroccan coasts are favorable to the establishment of an exclusive economic zone, with due consideration for several facts of a political and economic nature, the most significant of which are:

Morocco is a maritime country with coasts on both the Atlantic and Mediterranean. These waters contain immense fishing wealth in addition to nonbiological resources, whose protection is only beginning. But despite the importance of this wealth and the length of the coastline, the profitability of fishing and its place in national production are notoriously inadequate. Morocco is only 37th in world production of ocean fishing at a time when foreign fishing boats, outfitted with ultramodern equipment and skilled crews, freely cruise off the Moroccan coasts to exploit their wealth, either according to the provisions of a duly concluded agreement or even without a preliminary agreement.

Recovery of the Sahara has enabled Morocco to extend its jurisdiction to include waters very rich in biological and nonbiological resources (to be developed in cooperation with Mauritania).

All of these facts necessitate the establishment of an exclusive economic zone and the repeal of current national legislation or its amendment to adapt to new requirements. It consists mainly of two decrees: that of 2 March 1973³ concerning the exclusive fishing zone, whose provisions on fishing would have to be generalized to include the entire ZEE; that of 21 July 1958⁴ concerning petroleum prospecting and exploitation in the continental shelf and which would have to be applied to the entire ZEE, without forgoing the provisions of this decree, however, since all geological data prove that the continental shelf in certain Moroccan coastal regions, particularly in the south, extends beyond the outer limits of the exclusive economic zone.

As the establishment of an exclusive economic zone appears to be an urgent necessity for consolidating the integrity of the country and its economic development, this has led to the submission of a bill.

Content of Bill on ZEE

In preparing this bill, special attention has been given to: the political and economic facts constituting its basis, which we have just briefly analyzed; the existence in Morocco of an active group represented by jurists who, on both the Faculty of Law and in the Ministry of Foreign Affairs, are working to adapt Moroccan legislation to the gradual development of law of the sea; the stage of progress of international negotiations, represented mainly by the composite text of the negotiations,⁵ which represented the principal basis for drawing up the provisions of the bill. We were also inspired by certain conditions contained in ZEE laws enacted by several countries as well as by aspects of the debate on certain issues concerning international and regional cooperation; Moroccan legislation concerning law of the sea or questions directly or indirectly related thereto, principally the decree of 2 March 1973 establishing the limit of Moroccan territorial waters and the exclusive fishing zone, the decree of 23 November 1973⁶ on regulation of ocean fishing and the decree of 21 July 1958 concerning petroleum prospecting and exploitation in the continental shelf.

Conditions for Application of Law on ZEE

The success of any legislation depends less on its content or bases than on the necessary existence of certain conditions to promote its full application. This claim applies particularly to national laws concerning international relations and in the present case to all legislation regarding law of the sea. Respect for national laws in these areas requires the country to take a certain number of actions. In this connection, the establishment of an exclusive economic zone implies directing government action in the following ways:

Giving real consideration to the ocean fishing sector in order to increase fishing production and consumption; giving producers and workers in the sector the necessary means to use modern techniques, to improve the training of workers and to direct fishing activity to satisfy food needs within the country and enhance natural resources through industrial processing.

Strengthening the apparatus for surveillance of waters under Moroccan sovereignty, in which the authorities have certain rights and hold certain powers, by providing the navy with well-equipped patrol boats capable of inspecting the largest possible area of the ZEE to protect the country's resources from the systematic pillage to which they are subject by foreign ships.

Passing legislation which would enable Morocco to impose sanctions on foreign parties not respecting national laws on fishing, research and maritime exploitation, and who contribute to polluting the marine environment.

Intensifying activities for research, prospecting and exploitation of mineral resources and hydrocarbons in the ZEE, in order to guarantee the country's energy self-sufficiency and to protect its right to on-site conversion of maritime resources.

Consolidating bilateral and regional cooperation with maghrebian, Arab and African countries within the scope of respect for territorial integrity, sovereignty and national interests.

FOOTNOTES

1. I.e., the representatives of the Socialist Union (Ittihad) of People's Forces [USFP].
2. The eighth session met in Geneva from 19 March to 27 April 1979; see LE MONDE of 24 March 1979.
3. See preceding article, note 3.
4. See preceding article, note 7.
5. The composite negotiating text is a product of the New York session of 1977: Doc. A/Conf. 62/WP 10.
6. Decree No 1-73-255 of 27 Chaoual 1393 (23 November 1973) containing a provision on ocean fishing (BO [Bulletin Officiel: Official Report] of 28 November 1973, p 2040).

11915
CSO: 5200

TEXT OF USFP DRAFT LAW FOR EXCLUSIVE ECONOMIC ZONE

Paris MAGHREB-MACHREK in French Apr-May-Jun 79 pp 57-59

[Text] The first article of the bill defines the exclusive economic zone and Morocco's sovereign rights in the zone. It corresponds to articles 55, 57 and 56 (a) of the composite text.

Article 1: "The present law hereby establishes an exclusive economic zone subordinate to the Kingdom of Morocco, located beyond the territorial waters and adjacent thereto over a distance of 200 nautical miles measured from base lines used to measure the extent of territorial waters (arts 55 and 57 of the composite text).

"Morocco has sovereign rights in this zone for purposes of exploration, conservation and management of natural, biological and nonbiological resources of the ocean's depths and its substratum and of overlying waters, as well as in matters concerning other activities for exploration and exploitation of the zone for economic purposes, such as energy production from water, currents and winds (art 56a).

"These rights are exercised under the conditions and according to the procedures stipulated in the following articles."

Article 2 establishes the applicability of the provisions setting the limits of territorial waters and of the exclusive Moroccan fishing zone to include the entire exclusive economic zone.

Article 2: "The provisions of decree No 1-73-211 of 26 Moharrem 1393 (2 March 1973), establishing the limit of territorial waters and of the Moroccan exclusive fishing zone and granting the exercise of fishing rights exclusively to boats flying the Moroccan flag or operated by Moroccan individuals or legal entities, are applicable to the entire exclusive economic zone defined in article 1 above."

This article therefore takes up the provisions of the decree of 2 March 1973 and extends them to include the ZEE. It corresponds to article 3 of the French law of 16 July 1976.

With the same purport, article 3 takes up the provisions on regulation of ocean fishing, mainly concerning prohibition of its exercise by foreigners.

Article 3: "The provisions of decree No 1-73-255 of 27 Chaoual 1393 (23 November 1973), concerning regulation of ocean fishing and whose purpose is to prohibit foreigners from fishing and to establish penalties for any violation, are applicable within the exclusive economic zone defined in the article below."

Article 4 corresponds to article 56 of the composite text, which establishes in favor of the coastal nation a certain number of powers recognized by international law.

Article 4: "In the economic zone defined in article 1 above, the Moroccan government exercises the powers recognized by international law with regard to the establishment and use of artificial islands, installations and devices, scientific marine research and preservation of the marine environment (art 56b)."

Article 5 makes reference to the text concerning the exploration and exploitation of hydrocarbon deposits in the continental shelf and extends this text's terms and conditions to include the exclusive economic zone.

Article 5: "The provisions of decree No 1-58-277 of 4 Moharrem 1378 (21 July 1958), concerning the exploration and exploitation of hydrocarbon deposits and concerning the exploration of the continental shelf and exploitation of its natural resources, are applicable to the seabed and its substratum in the exclusive economic zone defined in article 1 above."

Articles 6, 7 and 8 define the rights and obligations of third nations and the substance of the liberties established in the zone. These articles correspond to article 58 of the composite text and to articles 88-115 defining the pertinent regulations of international law applying to the ZEE.

Article 6: "All nations, whether coastal or without coastline, enjoy within the exclusive economic zone and beyond the outer limits of territorial waters, in accordance with international law, freedom of navigation and overflight and freedom to lay underwater cables and pipelines and to use the sea for other internationally legal purposes, with the exercise of these freedoms referring to such persons connected with the operation of ships, aircraft and underwater cables and pipelines."

Article 7: "Foreign ships must abstain from passage in the Moroccan exclusive economic zone and, in keeping with the exercise of the freedoms mentioned in article 6 above, from all scientific or archaeological research or exploration and from any act of pollution or attack on the marine environment harmful to the resources of the Moroccan exclusive economic zone."

Article 8: "Foreign nations and their citizens are obliged to observe, when exercising their rights and obligations in the Moroccan economic zone and the freedoms mentioned in article 6 above, the laws and regulations enacted by the Moroccan government in accordance with provisions of international law and to respect Morocco's sovereign rights.

"The penalties for any violation of the provisions of articles 6 and 7 above will be established by decree."

Article 9 takes up article 33 of the composite negotiating text and sets the limits of the contiguous zone and the powers of the Moroccan government within this zone.

Article 9: "Over an area located beyond the territorial waters and adjacent thereto and up to a distance of 24 nautical miles measured from the base lines, to be known as the contiguous zone, the Moroccan government will exercise necessary control for the purpose of: preventing violations of its police, customs, tax, health or immigration laws on its territory or in its territorial waters; suppressing violations of these same laws committed on its territory or in its territorial waters."

Article 10 takes a position on the problem of delimiting the ZEE in a case where foreign coasts are opposite Moroccan coasts or bordering thereon. It opts for application of the equitable principles established by international law and not for application of article 74 of the composite text, which stipulates "the use of the median line or line of equidistance, i.e., the line whose every point is equidistant from the points nearest the base lines from which the extent of the territorial waters of each of the nations is measured."

Article 10: "Morocco observes the equitable principles established by international law and the pertinent factors in accordance with special circumstances of a geographic or geologic nature to delimit the economic zone by agreement with foreign nations whose coasts are opposite Moroccan coasts or which border thereon."

Finally, article 11 establishes the principle of international cooperation, to which Morocco adheres and which could be given privileged status in the case of Third World countries, principally African countries without coastlines and with great food needs.

Article 11: "The provisions of the present law constitute no obstacle to the principles of international cooperation, which Morocco endorses and which are represented by agreements with other nations, without prejudice to its rights of sovereignty and with respect for its national interests.

"Within this scope, Morocco adheres to the principle of privileged cooperation with developing countries, principally African and Arab countries without coastlines and with food needs, cooperation whose conditions would

be established by bilateral or regional agreements for these countries to participate in the exploitation of the biological resources of the exclusive economic zone."

Seminar on Morocco and Law of the Sea

Rabat, 8, 9 and 10 March 1979

M. Bennouna (Faculty of Law, Rabat): introductory report.

M. Zniber, Miss Ferhat (Faculty of Literature, Rabat): historical approach.

M. Loukili (Faculty of Law, Rabat): maritime zones under national jurisdiction.

F. Ouallalou (representative from Rabat): the proposed Moroccan zone of 200 nautical miles.

N. Sefiani (Ministry of Foreign Affairs): Moroccan positions on delimitation.

M. Ben Allal (Faculty of Law, Casablanca): Morocco and the issue of islands.

M. Ahmady (Faculty of Law, Casablanca): international agreements concluded by Morocco on fishing.

H. Zouitny (National Office of Fisheries): Moroccan participation in international ocean fishing organizations.

M. Azzou (Scientific Institute of Ocean Fishing): scientific marine research.

M. Kanouni (Bureau of Mineral Research and Interests): agreements concluded by Morocco on offshore hydrocarbon prospecting.

M. Bennani (Faculty of Law, Casablanca): Moroccan positions concerning the issue of the seabed beyond the limits of national jurisdictions.

O. Bahraoui (secretary of state to the prime minister in charge of economic affairs): financing of maritime investments in Morocco.

G. Tijani (Merchant Marine): Morocco and the development of ocean transportation.

A. Honsali (Merchant Marine): establishment of an emergency plan in the event of maritime pollution in Morocco.

A. Lahlou (National Agricultural Credit Bank): Morocco at the Barcelona Conference on Protection of the Mediterranean.

D. Dahak (Institute for Legal Studies): Moroccan positions on protection of the marine environment.

DEVELOPMENT OF A CADASTER FOR THE WORLD OCEAN'S BIORESOURCES

Moscow RYBNOYE KHOZYAYSTVO in Russian No 3, Mar 79, No 4, Apr 79

[Article by Cand Econ Sci V. V. Ivchenko, Atlantic Scientific Research Institute of Marine Fishing and Oceanography]

[No 3, Mar 79 pp 65-69]

[Text] In the last third of the 20th century human society's productive capacity reached a level of development requiring exploitation of the World Ocean's various resources, including biological, on a broad industrial scale in order to satisfy the needs of the world economy.

Soviet and foreign fisheries science and practice have accumulated tremendous amounts of knowledge on the habitat, condition, and biological reserves of the World Ocean. Nevertheless efforts at developing major programs for their sensible development with the help of modern scientific methods are encountering various difficulties, among which we can single out two.

Strange as it may seem, recruitment of the significant scientific-technical potential of many countries for extensive research on the World Ocean has resulted in a unique information gap in our knowledge of this portion of the globe. Disorganized accumulation of knowledge on the World Ocean's bio-resources has been a hindrance in a number of cases to use of this information with the purpose of organizing sensible development of these resources with a consideration for the economic and ecological balance. The other difficulty is that attempts at devising long-range programs for development of the aquatic environment's living resources have revealed a gap between our knowledge of the biological resources and ecosystems of the World Ocean on one hand and our economic interpretation of their content on the other.

Thus an objective need to do the practical scientific work of purposefully systematizing the entire diversity of knowledge on the sea's bioresources and their habitat has come into being. I am referring to developing a cadaster of the World Ocean's biological resources as a scientific basis for supporting a major program of sensible exploitation of the aquatic environment's living resources, mainly the coastal resources under the jurisdiction of our country.

World economics and science have accumulated a significant amount of experience in compiling and making practical use of various cadasters of natural resources.

Research aimed at compiling terrestrial and aquatic cadasters began in our country in the 1930's. An aquatic cadaster presently exists in the USSR and is regularly updated, and a great deal of scientific methodological and practical work has been done to prepare terrestrial, forest, and other cadasters. The idea of creating a cadaster of animals subjected to hunting and trapping in our country has been suggested.

Soviet cadasters differ from those of capitalist countries in that they are compiled with a consideration for the laws of social development, and they serve the interests of the entire society.

In the general theoretical sense a cadaster of the World Ocean's biological resources must be an integrated scientific-practical document systematizing all necessary information on concrete types of aquatic bioresources and their habitat, and the conditions of their economic utilization imposed by nature conservation, law, and economic organization.

The main objective of the cadaster is to obtain objective information about the distribution, habitation conditions, and reserves of concrete species of aquatic bioresources, and about the conditions for their prudent economic exploitation in the interests of maximally satisfying the society's demand for dietary and nondietary products. It is by purpose an informative, advisory document, and in a number of aspects it is a directive document supporting the functions of the national economy's management associated with development, exploitation, preservation, and reproduction of aquatic biological resources. The cadaster of the World Ocean's bioresources is a set of several cadasters.

The cadaster of the ocean's biological resources must support, on a long-range basis:

Estimation and forecasting of the reserves, distribution, and status of concrete species of bioresources in national and in international waters;

forecasting and planning of the activities of domestic fish industry in relation to sensible extraction of bioresources with respect to volume, species composition, and regions and seasons of formation of catchable accumulations;

planning of the activities of other national economic sectors having an indirect influence on the condition and population dynamics of aquatic reserves of bioresources;

planning of the location and specialization of production, as well as of the effectiveness of capital investments into fishing and other sectors of the national economy;

developing and implementing long-range programs of nature conservation measures at the national and international levels; implementing measures to biologically improve aquatic habitats and develop aquaculture;

determining the fees to be paid by national and foreign organizations for the use of the bioresources;

determining the compensation to be paid for losses inflicted upon bioresources by various industrial and economic sectors;

developing specific-purpose bioeconomic programs of long-term exploitation of resources in individual regions, and achieving other national economic objectives associated with sensible development of the World Ocean's bioresources.

We can see from this far from complete list that there are many reasons for compiling cadasters, involving both effective development of fishing industry and other types of production operations on one hand and prudent exploitation of the aquatic environment's living resources on the other.

The practical needs to be satisfied by development and management of these cadasters presuppose first of all that the bioresources must be classified. There can be a sufficiently large number of classification characteristics; however, I suggest limiting ourselves to two by way of introduction to the problem of arriving at a general classification: dependence upon territorial-geographical distribution of the aquatic environment and bioresources, and dependence upon the international legal status of these resources (see table).

Thus it appears possible to develop a cadaster of the World Ocean's bioresources at the national level (given availability of the needed information and the scientific potential). At the same time it is obvious that from financial and scientific considerations it would be easier and quicker to do this work through the efforts of several countries.

Each cadaster will differ from all others in structure and content due to the specific ways that the features of the bioresources and their exploitation are accounted for, and at the same time they will all have many common traits.

Looking at the cadaster of the sea's bioresources as a scientific-practical document, it might have the following sections:

General introduction

- I. Brief characterization of use of the ocean's bioresources today
- II. Oceanographic description of the habitat of the bioresources and the quality of the aquatic environment.
- III. Quantitative assessment of the reserves and condition of the bioresources, by species.
- IV. Qualitative assessment of the bioresource reserves.

Development and Introduction of Cadasters	At the National Level At the Level of International Treaties At the Level of International Organizations					Composite Cadaster of the World Ocean's Bio- resources		
		National Cadaster of the Aquatic Environ- ment's Bioresources	Cadaster of Bio- resources of Coastal Seas and Fishing Zones	+	+	+	Cadaster of the World Ocean's Bioresources	Cadaster of Bio- resources of Indivi- dual Oceans
			Cadaster of Bio- resources of Inland Seas	+				
			Cadaster of Bio- resources of Cultivated Ponds	+				
			Cadaster of Bio- resources of Rivers and Lakes	+	+			
		Cadaster of Bioresources of Fishing and Economic Zones	+	+	+	Cadaster of Bio- resources of Open Ocean Regions	Cadaster of Bioresources of Ocean Regions Governed by Conventions	
			Cadaster of Bio- resources of Open Ocean Regions	+				
			Cadaster of Bioresources of Ocean Regions Governed by Conventions	+	+			+
			Cadaster of Bio- resources of Indivi- dual Oceans	+	+			+
					Composite Cadaster of the World Ocean's Bio- resources			

- V. Appraisal of the ocean's bioresources.
- IV. International legal description of the conditions for developing the bioresources.
- VII. Economic-organizational assessment of the conditions for sensible development of the bioresources.
- VIII. The order of maintenance of the cadaster, and its organization.
- IX. The basic directions of practical use of the cadaster of the ocean's bioresources.
- X. Conclusion.
- XI. Attachments (cartographic and tabulated reference materials).

The way the bioresources cadaster is subdivided and its structure in general must account for the particular sectors that are to utilize the bioresources.

Let us briefly examine some requirements on the content of the cadaster's sections from the general methodological aspect.

Section I: Complete data on the actual volumes of bioresources present, the times of their harvesting, the size and species composition of catches, catch size with respect to harvesting effort in application to series-produced types of modern vessels, and so on are presented in correspondence with the commonly accepted national or international system for regionalizing oceanic (sea) basins, and in their temporal dynamics. It would be important in this case to reflect the national catch of each country in the total harvest in a given region.

Section II: This section provides the background for all subsequent parts of the cadaster. It must contain a general description of the oceanographic conditions governing distribution, migration, formation of catchable accumulations, and the habitat conditions of concrete species of bioresources, in relation to different regions. It must necessarily reflect the contamination levels and quality of the aquatic environment, and it must indicate the corresponding maximum permissible concentrations of different pollutants.

It would be best if the descriptions of oceanographic conditions and quality of the marine environment not only indicated the present state but also forecasted the dynamics of natural processes depending on changes occurring in different factors.

Section III: The assessment of the size of the reserves of concrete bio-resource species and the description of their status in relation to the adopted system of regionalization would perhaps make up one of the most important sections of the cadaster. As a rule these assessments would have a multipurpose prognostic character. On one hand the ecosystem parameters accompanying these assessments must be understandable and convenient for practical use during development of these resources, and on the other hand

they must orient industry at sensible exploitation of living resources and the corresponding aquatic ecosystems.

The system of forecast indices and the form in which they are presented must be unified for all regions of the World Ocean, and the indices must be comparable with those contained in similar documents published by international organizations.

It should be emphasized that to the credit of Soviet fisheries science, a tendency to forecast the use of aquatic bioresources with a mandatory consideration for maintaining their biological productivity has been clearly manifested in all stages of its development.

A no less important task is to satisfy the growing need for differentiated assessment of the commercial reserves from the standpoint of their availability and the rate at which they are placed in economic turnover. Today's recommendations and forecasts concern themselves with the catchable reserve, defined as the part of the total biomass which can be removed without disturbing the capability for normal reproduction in what is left. However, this interpretation far from always makes it clear as to the conditions under which the given catchable reserve may be industrially harvested and the time in which this can be done. Considering that economic zones, various catch quotas, and other international and ecological limitations have been established, this approach may lead to serious mistakes in scientific research and fishing.

The concept "biological resources of the aquatic environment" is closely associated in the economic sense with the concept "consumer"--that is, fish industry.

I believe it best to subdivide the concept "biological resources of the ocean (aquatic environment)" into four categories depending on how well we know the resources, their availability, and the particular stages of their development: general, potential, revealed, and the fisheries raw material base.

General bioresources include all reserves of aquatic animals and organisms believed to exist, which have been studied in relation to the given level of productive capacities and which may in principle be utilized in the future. This concept corresponds to the well known concept of "biomass."

Potential bioresources are that part of the total bioresources (corresponding to the catchable reserve), determined in the first approximation, which have consumer properties and can theoretically be utilized by industry without detriment to their reproduction. However, these are not sufficiently studied yet, and therefore they cannot be placed into economic turnover.

Revealed bioresources are the well-studied part of the potential resources, utilization of which is found to be economically feasible, given the

Corresponding level of technological development. Under certain conditions the potential bioresources transform into revealed bioresources.

The raw material base is that part of the revealed bioresources which is presently utilized or which can be placed into economic turnover. The real potential and revealed bioresources of the ocean are one of the principal factors in development of the raw material base of fish industry.

Thus if we are to forecast the state of aquatic bioresources and their development in relation to the categories examined above, science will have to develop new methodological approaches to making these forecasts.

[No 4, Apr 79 pp 64-67]

[Text] Section IV: This section should present qualitative bioresource assessments made in accordance with a single procedure.

There are many purposes to a qualitative assessment of aquatic bioresources; on one hand it can be used to compare the quality of different types of bioresources in all regions of the ocean, and on the other hand it can be used to determine the most sensible ways for utilizing these resources as they undergo processing, appraisal, and economic assessment with the goal of determining the effectiveness of capital investments and of utilizing the fishing fleet's fixed capital, and so on.

A qualitative assessment of the bioresources may be expressed by two groups of indices characterizing: a) biochemical and physicochemical properties, and b) their value as food and consumer goods.

The first group of indices has been studied sufficiently well, and it is extensively employed when developing the procedures for processing fish and nonfish raw materials.

The second group, the significance of which is constantly increasing, has not been studied deeply yet, and it requires further serious research.

The indices of the dietary and consumer value of raw materials of animal origin we usually employ include characteristics such as fat, protein, or calorie content per unit weight of the biological raw material, dressed meat, or finished product. The calorie content often serves as the principal index. However, it has been established by research that this index is inadequate to aquatic bioresources. The dietary value of biological resources of aquatic origin depends in many ways on the consumer value of the end product. As an example the calorie content of cod and anchovy, which contain about the same quantity of protein, is, correspondingly, 79 and 233 calories per 100 grams of fish meat. But despite the lower calorie content, cod is valued much higher by the consumer as an eating fish than is anchovy.

Thus the index of dietary and consumer value of bioresources must include a number of particular indices characterizing their dietary and consumer properties.

Owing to research by L. P. Minder and L. V. Fedorova, the scientific grounds for doing this have been established. For example the basic formula (1) provides us with one of the ways for computing the index under examination here:

$$K_i = N_i M_i (d_s S_i + \beta_d D_i), \quad (1)$$

where K_i is an index characterizing the dietary and consumer value of the biological raw material, N_i and M_i are dietary value indices characterizing the relative content of protein and dressed meat in the biological raw material, S_i and D_i are consumer value indices characterizing the possibility for utilizing a particular species of biological raw material for production of various products, and d_s and β_d are coefficients indicating the relative significance of S_i and D_i in relation to the overall consumer value of the given species of biological raw material.

The following should be done at this stage: Extensive research must be conducted on the size, weight, and chemical composition of all species of the ocean's bioresources; the appropriate point rating scales must be developed; expert tables of the gustatory properties of the food product must be set up in relation to different methods of industrial processing; the average weighted indices of the dietary and consumer value of the bioresources must be determined in relation to different regions of the ocean and different categories of bioresources (potential and so on); bio-resource qualitative assessment maps must be compiled for major regions of the World Ocean, and so on.

Section V: The appraisal of the ocean's bioresources is an important part of the cadaster; it must be closely associated with the qualitative and quantitative assessments of the bioresources, and it must to a certain degree serve as the basis for their economic evaluation.

Appraisal is usually defined in a land cadaster as a comparative evaluation of soil fertility correlated with the productivity of the basic agricultural crops over a period of a number of years, stated in terms of unit area.

This is significantly more difficult to do in relation to living resources in an aquatic environment. The high mobility of the ocean's bioresources in space and in time, fast changes in their reserves in response to biotic and abiotic factors, and man's industrial activities all make the appraisal task complicated.

Inasmuch as bioresources undergoing industrial development are basically exploited at the population level, aquatic bioresource appraisal may be defined in general as comparative evaluation of the biological productivities of individual populations or their associations in particular regions--that is, as determination of the suitability of these resources for long-term, thrifty economic use.

The methods used by fisheries science to study the World Ocean's living resources have produced significant amounts of data on population dynamics, the rate of replenishment of catchable reserves, and other natural processes directly or indirectly characterizing the biological productivity of these resources.

Nevertheless the problems of measuring the quality index of bioresources have still not been studied sufficiently from the standpoint of their economic use.

In my opinion the criterion we can use today for appraising marine bioresources (before we develop an integrated index) could be the amount of bioresources removed (caught) by a standard type of vessel in unit time, corrected for their dietary and consumer value and tied in with the geographic coordinates of the range of these resources. Particular supplementary indices would include the potential and revealed bioresources (the raw material base), with a consideration for all existing restrictions.

The main tasks in relation to this problem are: to study the methodological principles for appraising the sea's bioresources; to develop an integrated appraisal criterion and the methods of its measurement; to set up appraisal scales for particular objects of assessment and for the sum total of biological objects in a given region; to develop appraisal maps for different maritime regions; to reorganize all further oceanographic, biological, and other research on the World Ocean's living resources with a consideration for appraisal needs.

Section VI: In today's conditions, international legal rules and various treaties are important factors on par with ecological limitations, defining the availability and sensible use of the aquatic environment's bioresources.

The cadaster must systematically present the basic treaties and rules of maritime law pertaining to living resources, grouped in accordance with the commonly accepted system for regionalizing the World Ocean. In this case we must clearly designate the regions under the jurisdiction of the USSR. This information must be presented in a form permitting its convenient use during development of other sections of the cadaster and during preparation of any necessary decisions by scientific organizations and industry.

Section VII: This section is in a certain sense the concluding section, synthesizing the information of the cadaster's other sections.

Bioresources occupy a certain place in the theoretical conception of the economic-ecological system of the sea, developed in the works of the well known Soviet researcher Ukainian SSR Academy of Sciences Corresponding Member T. T. Meleshkin, and they are one of the conception's inherent elements.

World fisheries are the immediate consumer developing these resources and interacting with them. They exploit concrete biological resources in the

ocean, and not the ecosystem as a whole, though in a number of cases they do have a significant influence on the latter. Thus from the economic-ecological system we can single out, on accepting certain assumptions, a subsystem of the ocean's bioresources--production, which is referred to in the literature as the ocean's bioeconomic system, following its own laws of formation and development.

A number of problems of economic, organizational, and legal nature are assuming priority as we become more and more cognizant of the need for progressing from the "hunting" principle in our exploitation of the aquatic environment's living resources to regulated marine fisheries.

Inspection of these problems objectively leads us to the conception of economic-organizational assessment* of our utilization of the ocean's bioresources.

What this conception essentially entails is that in addition to making an economic (monetary), prognostic assessment of bioresources in relation to different regions of the ocean, we must make an organizational assessment--that is, we must suggest a system of measures taking the form of the corresponding programs, implementation of which would be necessary to achieve the goals posed.

I believe that the economic-organizational assessment of bioresources in the cadaster must reflect the economic (monetary) and organizational assessment.

An economic assessment of the sea's bioresources should be defined as an estimate of the long-range national economic impact from exploitation of these bioresources, determined in relative and in absolute form from the standpoint of the appropriate level of management, and stated in monetary terms.

The Atlantic Scientific Research Institute of Marine Fishing and Oceanography has conducted a cycle of research and developed the methodological principles** of economic assessment of these resources on the basis of methods developed by the USSR Academy of Sciences Central Institute of Economic Mathematics. These principles were developed on the basis of the theoretical assumption that the conditions for arisal of a differentiated investment income would arise in fish industry upon development of the ocean's biological resources.

According to the premises of optimum planning theory, there exist so-called "cut-off" expenditures reflecting the socially justified limit of outlays on extracting bioresources and making the necessary products from them. The

* Ivchenko, V. V., "Economic-Organizational Assessment of the Ocean's Bioresources," RYBNOYE KHOZYAYSTVO, No 1, 1974.

** Ivchenko, V. V., and Shakhovtseva, L. S., "Methodological Principles of Economic Assessment of the Sea's Bioresources in Coastal Waters," RYBNOYE KHOZYAYSTVO, No 7, 1976.

difference between these outlays per unit end product and the unit corrected outlays on harvesting, processing, and transporting the biological resources in particular differentiated regions of the ocean is the economic (investment income) assessment, equal to the economic payoff or impact from exploiting these resources. I suggest calling these assessments the cadaster assessments of the aquatic environment's bioresources.

Basing ourselves on known conceptions, we can compute the economic (cadaster) assessment of the bioresources of a concrete region of the ocean using formula (2), after stating the parameters of the end product in terms of the initial raw material and placing the two in comparable form in relation to the dietary and consumer value indices:

$$g_j = \max \left[d \left(\frac{z}{HK} - \frac{G_j}{H_j K_j} \right) \right], \quad (2)$$

where j is the index of the fishing region, g_j is the economic (cadaster) assessment of the given region's bioresources, d is a coefficient accounting for the time factor, z are the cut-off outlays per unit of generalized end product, G_j are the unit corrected outlays per unit end product made from biological raw material of the given region, H and H_j are the average weighted standard coefficients of expenditure of biological raw material per unit end product, and K and K_j are average weighted indices of the dietary and consumer value of the bioresources in a region for which the socially justified harvesting outlays are at their cut-off value, and in the region being compared to the former.

It should be kept in mind that cadaster assessments are not identical to existing wholesale prices. They cannot be applied to real economic turnover in the sector. Their purpose in the cadaster is to serve as the basis of information for determining the grounds for different planning decisions with the goal of: determining the effectiveness of measures aimed at conserving, reproducing, and utilizing biological resources; computing national wealth represented by living resources in seas under the country's jurisdiction; developing standards for economic stimulation of enterprises to improve utilization of the bioresources; determining the losses; determining the fees for use of the resources, and so on. In addition, the cadaster may present other particular indices based on gross and commodity production, cost, and so on for limited economic problems, to be used on par with the economic assessment based on the differential investment income criterion.

The organizational assessment is directly associated with the economic assessment. In contrast to other bioresources, the biological resources of the aquatic environment are highly dynamic in space and time, and their life cycle is relatively short. Considering this as well as the fact that time is limited, we would have to develop a set of typical bioeconomic programs (or blocks) related to the ocean's principal regions beforehand; these programs would apply to certain typical states and conditions of

development of the given bioresources. In the end, the organizational assessment of living resources in the World Ocean undergoing exploitation must be raised to the level of particular standards taking the form of typical programs.

A general analysis of the basic requirements imposed on the structure and content of a cadaster of the World Ocean's bioresources would persuasively demonstrate that its compilation is an urgent national economic problem, which must be solved at a high organizational level. To do this, we would obviously have to first develop an integrated program and an independent plan of scientific research embracing the scientific and planning organizations of the USSR Ministry of Fish Industry and other government agencies.

Development of cadasters of bioresources in different regions of the high seas, contiguous waters, and other regions might also serve as a good basis for achieving mutually advantageous scientific-technical cooperation with foreign countries interested in sensible long-range exploitation of these resources.

Solution of the problems of creating a cadaster of the World Ocean's bioresources would require a large amount of time, and a certain amount of alteration of the organization, structure, and financing of fisheries research.

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FRG INTERESTS FOR EIGHTH LOS CONFERENCE DISCUSSED

Bonn DEUTSCHE ZEITUNG in German 3 Aug 79 p 10

[Article by Dr Wolfgang von Geldern, CDU member of the Bundestag and observer at LOS and UNCTAD conferences: "Law of the Sea Conference--A Ripple in the Water--The Eighth Round Begins in New York"]

[Text] "Manila--I don't want to hear the word any more," is supposed to have been the complaint of the federal chancellor in view of the fruitless spectacle of the world trade conference in the Philippines. I believe that the chief pilot of the nation cannot bear the words "Law of the Sea Conference"--about to commence its eighth round in New York--either, and has angrily pulled the famous captain's cap down over his ears.

Even though though the conference is dealing with the allocation of the remaining two-thirds of the Earth's surface, and is considering the most basic questions of the future of our nation, such as distribution of raw materials, the questions of fishing and navigation, there is no necessary harmony within the cabinet in Bonn. No competence in dealing with basic principles can be seen or felt on the part of the federal chancellor. Observers agree on the miserable role played by the development minister, Offergeld, in Manila. But at least he was there, even though he and minister for Economics Count Lambsdorff held forth in a curiously dissonant duet.

The futile monster show put on by UNCTAD in Manila, costing approximately DM 100 million, was in essence a problem that will not be continued for another 4 years--and then of all places in Cuba. The marathon Third International Conference has now lasted for 7 years without an official text as a basis for negotiation; from the German point of view it is a continuous fiasco.

Both conferences have drawn some 5,000 delegates from approximately 160 countries and are thus so vast and inefficient that doubts rather than hopes arise about the weighty questions that have to be discussed. Bitterly disappointed were the hopes that at least the German side would present a clear concept for future political planning about the world's economic order and

north-south dialog, central questions at both conferences. The Federal government has been unable to confront the "Group of 77"--the host of developing nations that has in the meantime grown to 119--with effective and flexible negotiations that would have a change for success.

As early as the fourth round of UNCTAD, German concessions about the integrated raw materials program caused an erroneous throw of a decisive switch; consequently, resistance to further divigist demands has lost much of its credibility. At the LOS Conference, on the other hand, the FRG took such a late, hesitant and indecisive notice of the signs regarding the proposed distribution of all the rights along the oceans, on the oceans and on the ocean floors with the consequent grave results for trade and navigation, fishing and research, environmental protection, raw materials supply and technological interests that with the exception of the problem of mining the ocean floors only rear guard actions are currently being fought.

While the questions discussed at Manila--and also, primarily, the questions not discussed because of negligence, such as the problem of linking development aid with the assurance of raw materials supply to the FRG by developing countries rich in raw materials and petroleum--will remain in the focal point of our attention regardless of future UNCTAD meeting dates, there are further negative developments threatening at the LOS conference that must be parried:

1. After the worldwide imposition of economic zones extending to 200 nautical miles that decisively hinder German high-seas fishing, it must be assured that merchant shipping, oceanographic research and naval activities will not be limited in the well-earned legitimate rights by further nationalization of the economic zones with consequent harm to our economic, scientific and military future.

2. Presumably the last unexplored area for development on the earth--excepting Antarctica--that is of great importance for the future of our technology, industry and raw materials supply must be opened through a satisfactory conference result or through national action in concert with other industrial nations, and on the basis of the freedom of the high seas. The same holds for future mining of the ocean floors outside the 200 nautical mile economic zones. The great majority of the UNCTAD plenary session at Manila protested against the political idea of exploiting these riches of the ocean floors for the common benefit of all humanity, even in the absence of a decision by a UN conference. Such intentions have received concrete form only in draft legislation presented to the American Congress and the German Bundestag. Naturally, the situation at the LOS Conference is similar. Should the members of the German Bundestag who participate at the conference as observers return from New York without concrete results they will be forced to press for action, i.e. for the passage of draft legislation regarding national interim regulations concerning mining of the ocean floors, since the basic rights of the FRG cannot be washed away at the LOS Conference, and since the further development of ocean technology is in the interests of humanity. The Bundestag must take this action in the awareness of providing an example of parliamentary political planning for the future, something that the Federal Government is apparently unable to do.

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